

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: CIVIL PART  
ATLANTIC COUNTY  
DOCKET NO.: ATL-L-2648-15  
A.D. # \_\_\_\_\_

)  
IN RE: JOHNSON AND JOHNSON) TRANSCRIPT  
TALCUM-BASED POWDER ) OF  
PRODUCTS LITIGATION ) HEARING  
)

Place: Atlantic County Civil Crt.  
1201 Bacharach Blvd.  
Atlantic City, NJ 08401

Date: March 25, 2024  
**MORNING SESSION**

BEFORE:

HONORABLE JOHN C. PORTO, J.S.C. AND  
RUKHSANAH L. SINGH, U.S.M.J.

TRANSCRIPT ORDERED BY:

JEFFREY M. POLLOCK, ESQ., (Fox Rothschild)

APPEARANCES:

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MICHAEL SABO, ESQ., (Fox Rothschild, L.L.P.)  
Attorneys for Plaintiff

STEVE BRODY, ESQ., (O'Melveny & Myers, L.L.P.)  
Attorney for J&J and L.T.L. Mngt.

\*(Appearances continued)

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PLENARY HEARING:

<u>WITNESSES FOR</u> <u>THE DEFENDANT:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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1 (Proceeding commenced at 9:38:03 a.m.)

2 COURT OFFICER: All rise for Judge Rukhsanah  
3 Singh and Judge John Porto.

4 THE COURT: Thank you. Good morning,  
5 everyone, please be seated.

6 MR. BRODY: Good morning.

7 MR. POLLOCK: Good morning.

8 THE COURT: All right, this is In Re: Talc-  
9 Based Powder Products Litigation, M.C.L. Case Number  
10 300, ATL-L-2648-15. Can I have the appearance of  
11 Plaintiff's Counsel?

12 MR. POLLOCK: Good morning, Your Honor. Jeff  
13 Pollock and Mike Sabo on behalf of Plaintiff.

14 THE COURT: And Defense Counsel?

15 MR. BRODY: Yes, good morning, Your Honor.  
16 Steve Brody for Johnson and Johnson and L.T.L.  
17 Management, L.L.C. and with me this morning is Erik  
18 Haas from Johnson and Johnson.

19 MR. HAAS: Good morning, Your Honors.

20 THE COURT: Thank you, good morning. And I  
21 said, you know, Plaintiff, I know this is a little  
22 different but this is Plaintiff's Counsel, the movant,  
23 and the party with the burden is Defense Counsel,  
24 Johnson and Johnson.

25 How are we going to be addressing questions?

1 Is there going to be one attorney, Mr. Brody, Mr.  
2 Pollock, or is it going to be a number of attorneys  
3 making -- questioning witnesses?

4 MR. BRODY: Your Honor, on our side, I am the  
5 only person who will be questioning the witnesses.

6 THE COURT: Okay and Mr. Pollock?

7 MR. POLLOCK: And the same thing here, Your  
8 Honor.

9 THE COURT: Okay. I just wanted to be clear.  
10 Mr. Golomb, I'm going to address your matter toward the  
11 end, all right? Let me get right into this today.

12 MR. GOLOMB: Yes, sir.

13 MR. POLLOCK: I would note one thing, Your  
14 Honor. Michael Stein is here and he is Mr. Conlon's  
15 attorney.

16 MR. STEIN: Thank you. Good morning, Your  
17 Honor, Michael Stein and in case you need an  
18 appearance, and my partner Roger Plawker from Pashman,  
19 Stein, Walder and Hayden, on behalf of Mr. Conlon.

20 THE COURT: Thank you, a very good morning to  
21 you.

22 MR. STEIN: Same to you.

23 MR. PLAWKER: Same.

24 THE COURT: Thank you for entering your  
25 appearances. Anyone else with to address the Court in

1 that manner? Okay, Judge Singh, anything?

2 JUDGE SINGH: No, nothing for me.

3 THE COURT: All right. Now, Mr. Brody, do  
4 you want to call your first witness?

5 MR. BRODY: Thank you, Your Honor. The  
6 Defendants call Eric Hass.

7 THE COURT: And I do have and Judge Singh  
8 has, we received from Fox, the exhibit book that we  
9 have. We've seen these before, so I just want to --

10 MR. BRODY: Yes.

11 THE COURT: You know, just let everyone know  
12 we have the notebooks with the exhibits in there.

13 MR. BRODY: Okay and that's exhibits 1  
14 through 18?

15 THE COURT: Yes.

16 MR. BRODY: Yeah, those are the agreed upon  
17 hearing exhibits that Mr. Pollock and I have discussed  
18 and you know, we have agreed, obviously, questioning  
19 may stray beyond those 18 exhibits.

20 THE COURT: Okay and it's subject to any  
21 objections, of course, right?

22 MR. BRODY: Of course.

23 THE COURT: Mr. Haas?

24 E. HAAS: Yes, Your Honor?

25 MR. POLLOCK: Your Honor, before we start,

1 that last comment concerns me a little bit and  
2 obviously, I realize, as questioning counsel, he has  
3 latitude. This is your courtroom, I'm addressing two  
4 courts. I am concerned about scope and I normally  
5 don't like to object over much because you don't want  
6 to stop flow of the witness' testimony and I respect  
7 that.

8 However, the issue here is whether they  
9 should be disqualified based upon R.P.C. 1.6. There  
10 are a lot of other issues we could get into. So I will  
11 be objecting on the basis of scope, is my anticipation,  
12 especially in light of that last comment. I don't know  
13 if the Court wants to address that but that is a  
14 concern to me.

15 The other last issue is, we will stipulate  
16 that Mr. Conlon had access and possession to privileged  
17 information while he worked at J and J. We don't doubt  
18 it. I don't know what that is but I have no doubt that  
19 he had it. If that moves things along, we will  
20 stipulate to that fact right now.

21 THE COURT: Okay and well, Mr. Pollock,  
22 that's why I said, subject to objections. I can't read  
23 --

24 MR. POLLOCK: Yes, sir.

25 THE COURT: Judge Singh can't read anyone's

1 minds. We're not there yet but I want to keep the  
2 scope tight and I don't want to go too far afield. I  
3 think it's a limited issue. Is there an actual  
4 conflict of interest here?

5 We've addressed it and to the extent we, you  
6 know, go beyond those, you may be hearing -- without an  
7 objection, you may be hearing from Judge Singh and  
8 myself.

9 MR. POLLOCK: Of course and our questioning  
10 is very focused on the issue before the Court. I will  
11 just say, there are many more ethical rules at stake  
12 here than simply Rule 1.6 and there are multiple  
13 ethical rules that have been violated here. We'll talk  
14 about those in summation, after witnesses testify but  
15 this is much broader than a simple 1.6 issue.

16 THE COURT: Okay. Mr. Haas?

17 E. HAAS: Yes, Your Honor?

18 THE COURT: Thank you for awaiting us.  
19 Please raise your right hand. Tell me your name and  
20 spell your last name?

21 MR. HAAS: Erik Haas, H-A-A-S.

22 E R I K H A A S, DEFENDANT WITNESS, SWORN

23 THE COURT: Thank you, you may be seated.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Mr. Brody?



1 MR. BRODY: Thank you.

2 DIRECT EXAMINATION BY MR. BRODY:

3 Q Mr. Haas, I guess maybe we can -- you're kind  
4 of behind the screen there. So I'm going to move to my  
5 left here so that I can see you a little better. Who  
6 are you employed by, Mr. Haas?

7 A Johnson and Johnson.

8 Q And what is your position at Johnson and  
9 Johnson?

10 A I am the Worldwide Vice President, responsible for  
11 litigation on behalf of Johnson and Johnson.

12 Q Can you tell the Court what your  
13 responsibilities are in that role?

14 A Yes, in that role, I oversee any litigation  
15 brought by Johnson and Johnson or brought against  
16 Johnson and Johnson. I also actively participate in  
17 the litigations, where necessary and appropriate to  
18 make appearances, as required and I'm also responsible,  
19 in connection with responding to any external  
20 inquiries, for example, from Congress or from the  
21 investor community for the external environment.

22 Q Who do you report to in that role?

23 A I report to the General Counsel.

24 Q Okay and the General Counsel, I understand,  
25 sits on the executive committee that is the senior-most

1 executives at J and J?

2 A That is correct.

3 Q In that role, do you ever see the top  
4 litigation?

5 A I do.

6 Q Does that include the litigation pending in  
7 the State M.C.L. in New Jersey and in the Federal  
8 M.D.L. in Trenton?

9 A Yes, it does.

10 Q How long have you been overseeing the top  
11 litigation?

12 A In terms of my oversight responsibilities, I took  
13 over the actual oversight responsibilities in March  
14 2021, when my predecessor, who that role, Joseph  
15 Braunreuther, retired from that role. I started at  
16 Johnson and Johnson in November of 2020.

17 At that time, I had -- well, prior to that time, I  
18 had been outside counsel for Johnson and Johnson on a  
19 series of litigations, including those that involved  
20 Talc Litigation. So I had some involvement with Talc  
21 Litigation going into the role.

22 When I began working at Johnson and Johnson and  
23 the head (indiscernible) Vice President in 2020, I was  
24 involved in the Talc Litigations but my oversight  
25 responsibilities became -- started in March of 2021,

1 when Mr. Braunreuther left.

2 Q And just for the benefit of the Court, you  
3 said that before you started at Johnson and Johnson in  
4 November of 2020, you were outside counsel for J and J;  
5 where were you working at the time?

6 A I was a partner at Patterson, Belnap, Webb and  
7 Tyler (phonetic), I had represented Johnson and Johnson  
8 for almost 30 years.

9 Q All right. Are you familiar with the work  
10 that James Conlon did for J and J, as outside counsel,  
11 on the Talc Litigation?

12 A I am intimately familiar with the work that Mr.  
13 Conlon did.

14 Q How did you become familiar with that work?

15 A When I started in November 2020, I almost  
16 immediately was contacted by Mr. Conlon when he learned  
17 that I had started in that role. And when I mentioned  
18 Mr. Braunreuther previously, he was the Associate  
19 General Counsel. My position was to transition into  
20 his position, we were combining two roles into one.

21 So it was clear, at some point, I would be taking  
22 over the litigation of the Talc matters. And he  
23 contacted me, I spoke with him at that time. And then  
24 during the entire course of his tenor as outside  
25 counsel for Johnson and Johnson, I communicated with

1 him regularly.

2 We had weekly standing calls, which were extending  
3 calls of the outside counsel teams that represented  
4 Johnson and Johnson with respect to the Talc matters.  
5 And you can appreciate because the Talc matters is the  
6 largest litigation risk of Johnson and Johnson, we had  
7 a number of firms that were representing the company in  
8 connection with the Talc Litigation.

9 A number of bankruptcy firms, a number of -- the  
10 tort liability firms, a number of consulting firms. So  
11 we would have weekly calls where we would collectively  
12 discuss the strategy for litigating and adjudicating  
13 the Talc Litigation. So Mr. Conlon routinely  
14 participated in those calls.

15 I also had many, many, many individual direct  
16 calls with Mr. Conlon during his tenor as outside  
17 counsel for Johnson and Johnson and that ran from July  
18 of 2020 through March 28th of 2022 and I had direct  
19 communications, direct e-mails, calls, dinners, lunch.  
20 So we were continuously communicating with respect to  
21 all aspects of the cases at that time.

22 Q And you mentioned July of 2020 until Spring  
23 of 2022. Is that the period where Mr. Conlon was  
24 outside counsel for J and J?

25 A That is correct.

1 Q And have you also reviewed billing entries  
2 that Mr. Conlon submitted over the course of that time  
3 period?

4 A I did. So the period --

5 MR. POLLOCK: Objection, Your Honor. Best  
6 Evidence Rule, hearsay, speculation. These documents  
7 have not been produced. He is not an expert witness,  
8 there are no summaries provided, 1,000 (indiscernible)  
9 does not apply, the Best Evidence Rule. I can't cross  
10 examine on what I don't have. So his testimony  
11 regarding what is in the billing records is pure, raw,  
12 hearsay.

13 MR. BRODY: Your Honor, the question was  
14 simply if he had reviewed the billing records.

15 THE COURT: Overrule the objection.

16 MR. BRODY: Thank you.

17 THE COURT: Please continue.

18 THE WITNESS: Yes, I did review the billing  
19 records for the entire time that Mr. Conlon was engaged  
20 by Johnson and Johnson.

21 BY MR. BRODY:

22 Q Did Mr. Conlon's representation of Johnson  
23 and Johnson include work related to the cases that are  
24 pending here in this New Jersey M.C.L.?

25 A Yes.

1 Q Did it include work related to the cases that  
2 are pending in the Federal Talc M.D.L.?

3 A Yes.

4 Q Before I ask you specific questions about the  
5 work that Mr. Conlon did for Johnson and Johnson, I  
6 want to first say, I'm going to be asking you a series  
7 of questions. I don't want you to reveal the substance  
8 of any of the analysis that Mr. Conlon did, the  
9 substance of any analysis that he was privy to, that he  
10 may have discussed with you, with other lawyers at  
11 Johnson and Johnson, with other outside counsel for J  
12 and J because that is privileged information.

13 So I do want you to be careful. I'll remind you  
14 throughout that I'm only looking for yes's and no's and  
15 that I don't want to get into that substance  
16 specifically.

17 A Understood.

18 Q You have described in certifications  
19 submitted to this Court that this Court and Judge Singh  
20 have seen, the types of issues that Mr. Conlon worked  
21 on at a high level and I want to talk about some of  
22 those issues with you today while you're on the stand.

23 First of all, I want to talk about resolution of  
24 cases in the tort system. Can you give the Court some  
25 general examples and at this point, not specific to the

1 Talc Litigation but some general examples of how cases  
2 in a mass tort like the Talc Litigation are resolved  
3 through the tort system?

4 MR. POLLOCK: Your Honor, objection on scope.

5 MR. BRODY: It's a preliminary question, Your  
6 Honor, which will very quickly lead to a question about  
7 Mr. Conlon's work.

8 THE COURT: I'm going to overrule the  
9 objection but I think it does go beyond the scope. If  
10 you could just give him context, if you're going to  
11 question Mr. Haas with regard to context. I think,  
12 candidly, I think Judge Singh and I can take judicial  
13 notice with regard to how these cases are settled but  
14 we'll give you some latitude.

15 MR. POLLOCK: Thank you, I think it will be  
16 helpful to the Court, Your Honor.

17 THE WITNESS: And I think I can move things  
18 along by answering it both in terms of what typically  
19 happens but what Mr. Conlon specifically was involved  
20 in. In general terms, without getting into privileged  
21 information. You know, the Talc Litigation, for the  
22 most part in the tort system, is resolved through  
23 litigation.

24 Because by nature of what the tort is, it is  
25 what is known as a latency tort. So that, you have

1 claimants that allegedly were exposed to Talc Powder  
2 currently but their disease state may not manifest for  
3 years. And so those are the types of claims that  
4 typically, cannot be resolved for your standard class  
5 or other types of settlements that you would do in a  
6 tort system.

7 So the main way to resolve cases in a tort  
8 system is through litigation and we discuss those  
9 weekly on the calls that we have with our collective  
10 outside counsel group, of which Mr. Conlon participated  
11 and was an active participant. With that said, we also  
12 discussed other potential ways to resolve matters  
13 outside of the bankruptcy system and the tort system.

14 So that would include: individual settlement  
15 agreements, portfolio settlement agreements, what is  
16 known as a divisional merger, followed by a spin-off, a  
17 divisional merger followed by a bankruptcy and other  
18 types of what are known as structural optimization  
19 transactions where you cabin the liability in an entity  
20 and then remove that entity from the corporate  
21 hierarchy.

22 And each of those topics were discussed,  
23 debated, critiqued, the strengths and benefits of them,  
24 the risks of those, the pros and cons of those were  
25 debated at great length during the calls that we had on



1 a weekly basis and individually with Mr. Conlon.

2 BY MR. BRODY:

3 Q And so Mr. Conlon was a part of those  
4 discussions?

5 A Mr. Conlon was an integral part of the outside  
6 counsel team.

7 Q And did that include discussions -- and  
8 again, I want you to limit this, not disclose the  
9 substance of it but did it include discussions of the  
10 advantages and disadvantages of potential resolution  
11 through the tort system compared to other options that  
12 may have been available to Johnson and Johnson?

13 A Yes --

14 MR. POLLOCK: Your Honor, can I get clarity  
15 as to whether this is Amyris or L.T.L.? Because I  
16 don't know what the context this arose in and the  
17 witness does not clarify where this discussion  
18 occurred. I have no documents to review. So I think  
19 I'm entitled to at least know --

20 THE COURT: Fair question.

21 MR. POLLOCK: -- which bankruptcy is it  
22 related it?

23 THE COURT: Mr. Brody?

24 MR. BRODY: Your Honor, the question was not  
25 specific to any particular bankruptcy. It was a

1 question about whether Mr. Conlon was a part of  
2 discussion of the advantages and disadvantages of a  
3 resolution through the tort system, compared to all of  
4 the other options that were potentially on the table  
5 for Johnson and Johnson.

6 THE COURT: Wouldn't that go to L.T.L.,  
7 Johnson and Johnson?

8 MR. BRODY: It -- well, let me ask Mr. Haas a  
9 question.

10 BY MR. BRODY:

11 Q Were those comparisons limited to Amyris?

12 A No, they were not limited to Amyris or L.T.L. So  
13 it wasn't limited to where Johnson and Johnson and its  
14 affiliates were third-party debtors in the Amyris  
15 context or when we were a debtor in the L.T.L.  
16 bankruptcies. Quite to the contrary.

17 From the very first conversation I had and  
18 throughout the time Mr. Conlon was representing Johnson  
19 and Johnson, we had repeated discussions, many, many  
20 discussions, over whether and to what extent these  
21 cases should be resolved. In bankruptcy or completely  
22 outside of bankruptcy, in a number of different ways,  
23 through what he referred to as structural optimization.

24 But involved what I had mentioned earlier;  
25 divisional mergers that could be followed by spin-offs,

1 where basically, you sell the entity that takes on the  
2 liability or divisional mergers that would be followed  
3 by bankruptcy or combinations of the both.

4 And that was the other aspects of, speaking in  
5 very general terms; it didn't necessarily mean one or  
6 the other. There could have been combinations in terms  
7 of, you cabin some liability, you put other liabilities  
8 into a bankruptcy. It could depend upon the disease  
9 state, for example, Mesothelioma versus cancer claims.

10 So each of those iterations were mapped out and  
11 were discussed with respect to, what would the benefits  
12 be of one versus the other. When would you want to do  
13 one versus the other, how would you go about doing one  
14 versus the other, who would you approach to do one  
15 versus the other?

16 So those were the types of conversations we had,  
17 without getting into the specifics.

18 Q And when you say, who would you approach; can  
19 you tell the Court what you mean by that?

20 A There are just a few of the counsel that were  
21 involved in these discussions sitting in the courtroom  
22 today. If we were to bring them all in, we would need  
23 a courtroom tenfold the size of this. There were many,  
24 many counsel involved in the Talc Litigation, which  
25 reflects why we had so many firms involved.

1 And so part of the strategic issue was, who do you  
2 approach and when? Each of the different litigations  
3 had someone who was or a group of individuals who were  
4 taking lead. So for example, the Amyris bankruptcy had  
5 a Torts Claimants Committee, which is a series of ten,  
6 about ten individuals, who were coronated by the U.S.  
7 Trustee. Each of those were represented individually  
8 by Counsel.

9 Those individual claimants were appointed by the  
10 U.S. Trustee to represent that class of claimants in  
11 the Amyris case. And so those counsels took the lead  
12 in that particular situation. Same thing in L.T.L. In  
13 the M.D.L., you had a different set of leadership. The  
14 M.C.L., different. A lot of it overlapped. There was  
15 a great deal that overlapped.

16 For example, Beasley Allen had a primary role, I  
17 would say, in each one of those constituents but  
18 depending upon which group or which litigation you were  
19 dealing with, that then, in turn, dictated who were the  
20 individuals that would be leading. So strategically,  
21 you had to figure out who to speak to first.

22 And for example, when you're talking bankruptcy,  
23 you also had another group of individuals, those that  
24 represented the future claim representatives, right,  
25 the future claimants. So you have classes of current

1 claimants and futures and then you have different  
2 classes of creditors. So you have to figure out how to  
3 go about addressing those.

4 So it was a multi-dimensional spectrum of  
5 claimants and interests and counsel that represented  
6 them. So strategically, there were many calls that had  
7 to be made in order to assess who to approach and when.

8 Q And do those assessments inform Johnson and  
9 Johnson's decision making on the Talc Litigation?

10 A Yes.

11 Q And was Mr. Conlon privy to how those  
12 assessments impacted Johnson and Johnson's decisions in  
13 the Talc Litigation?

14 A Yes.

15 MR. POLLOCK: Objection, Your Honor. How do  
16 I conceivably know what Johnson and Johnson considered  
17 when there's an entire board of people, the General  
18 Council is involved, I have no records. I have to  
19 again object on hearsay. I have no basis to know what  
20 Mr. Conlon's role was.

21 MR. BRODY: Your Honor, this witness, we've  
22 established, was in charge of the Talc Litigation. I  
23 can ask him a predicate question.

24 BY MR. BRODY:

25 Q Do you have first-hand knowledge of whether

1       these assessments informed Johnson and Johnson's  
2       decision making on the Talc Litigation?

3       A     I have absolute knowledge because it's my  
4       decision. I made the decisions with respect to Talc  
5       Litigation. If there's any issue that you would like  
6       to discuss today as to ultimately why it was made, the  
7       buck stops here.

8           Q     Right. So going back to my question because  
9       I don't know that you got your answer before the  
10      objection was made. Did the assessments that you've  
11      been speaking about inform Johnson and Johnson's  
12      decision making on the Talc Litigation?

13      A     Yes, they did.

14           Q     And was Mr. Conlon privy to not only those  
15      assessments but how those assessments informed Johnson  
16      and Johnson's decision making?

17      A     Yes and in that regard, I would say he was very,  
18      very active and had very strong points of view and  
19      communicated them very strongly, not only to me but to  
20      the outside counsel group?

21           Q     Would you ever share those assessments with  
22      opposing counsel in the Talc Litigation?

23      A     Absolutely not.

24           Q     Why not?

25      A     If I were to share the internal deliberations with

1 both in-house counsel and outside counsel, with our  
2 adversaries, it necessarily would provide us with a  
3 strategic disadvantage. It would be an unfair  
4 advantage because the other side would understand what  
5 we see as the risk benefits, the pro-cons, the  
6 advantages, the disadvantages.

7 It would present an unfair advantage and I think,  
8 in my view, it would fundamentally undermine the  
9 adversarial process and completely contravene all  
10 interest in justice. So no, I do not believe it would  
11 be appropriate, under any circumstances, to communicate  
12 those confidential communications or the nature of what  
13 we were discussion to our adversaries.

14 Q Now, you heard Mr. Pollock in one of his  
15 objections mention the Amyris bankruptcy. I want to  
16 ask you just a few questions about that. Are you  
17 familiar with the bankruptcy proceedings involving  
18 Amyris?

19 A Yes.

20 Q And very briefly, can you explain to the  
21 Court what the Amyris bankruptcy is?

22 A Amyris was a company that extracted mined talc in  
23 the United States and supplied a number of companies  
24 with that talc, including for Johnson and Johnson, for  
25 Johnson and Johnson's Baby Powder. And I believe in

1 2019, Amyris filed a Chapter 11 case because it was  
2 facing talc claims.

3 Those talc claims were the same talc claims, for  
4 the same harm that Johnson and Johnson was facing  
5 because those claims were asserted against both Johnson  
6 and Johnson and Amyris as a supplier. As a  
7 consequence, in that bankruptcy, Johnson and Johnson  
8 had indemnification claims against Amyris. Amyris had  
9 indemnification claims against Johnson and Johnson but  
10 they were the same claims.

11 Now, Amyris was the debtor that filed the Chapter  
12 11 case and because of the interest of Johnson and  
13 Johnson in ensuring that there is a fair determination  
14 and adjudication of those claims, whether through  
15 bankruptcy or not, Johnson and Johnson participated in  
16 the Amyris bankruptcy and both as a -- in instances as  
17 an objector and in other instances as a third-party  
18 debtor.

19 Because under the bankruptcy code, there are  
20 rights that are attributed to third-party debtors,  
21 including the ability to participate in a plan for the  
22 resolution of the bankruptcy and for the complete  
23 release of the talc claims.

24 Q Was Mr. Conlon involved in issues related to  
25 the Amyris bankruptcy when he was representing Johnson



1 and Johnson as its outside counsel?

2 A Yes, he was intimately involved. He commented  
3 quite extensively, he was involved in drafting and  
4 commenting on submissions to the Bankruptcy Court, in  
5 connection with the Amyris bankruptcy. He did  
6 everything an outside counsel would do with respect to  
7 the Amyris bankruptcy.

8 Q All right, are you familiar with the Tort  
9 Claimants Committee in the Amyris bankruptcy?

10 A Generally and I think I mentioned this earlier.  
11 The Amyris Tort Claims Committee is a committee of, I  
12 believe, ten claimants, ten or eleven claimants, that  
13 were appointed by the U.S. Trustee, in order to  
14 represent that class of tort claimants. Each of the  
15 claimants is represented by a firm, a counsel.

16 And so that outside counsel for those claimants,  
17 well the counsel for the claimants, were the  
18 representatives of those tort claimants in connection  
19 with the bankruptcy.

20 Q And are you aware of whether Mr. Conlon was  
21 privy to the development of Johnson and Johnson's  
22 negotiating strategy for resolution of talc claims with  
23 the Tort Claimant's Committee or the T.C.C., in the  
24 Amyris bankruptcy?

25 A He was actively involved and he actively

1 participated in communications with the T.C.C. for  
2 Amyris, which included Beasley Allen, which was one of  
3 the firms that represented a claimant on the Tort  
4 Claimant's Committee. And Beasley Allen took a lead  
5 role with respect to the Tort Claimant's Committee.

6 And in addition to discussions with the Tort  
7 Claimant's Committee, Mr. Conlon had conversations with  
8 the counsel for the debtor, that's Jeff Bjork at Latham  
9 and Watkins and he had conversations with counsel for  
10 the future claims representative, that was James  
11 Patent, to the best of my recollection.

12 Q Could you explain to the Court what the role  
13 of the future claimants representative is or was in the  
14 Amyris bankruptcy?

15 A Yes, so in the bankruptcy setting, when you're  
16 dealing with a mass tort like this, not all mass torts  
17 have this characteristic but it has future claims  
18 because of the reasons I've stated earlier. Because  
19 the latency period goes on for some period of time, you  
20 may have claimants today who have been exposed but have  
21 not yet incurred any disease state.

22 As a consequence, their claims cannot really ripen  
23 until such a time as they have that disease state. So  
24 those claims could come at some point in the future,  
25 notwithstanding that bankruptcy is designed to get a

1 contemporaneous resolution.

2 So in connection with bankruptcy, there are  
3 provisions and rules that allow for the resolution of  
4 both current and future claims but in order for it to  
5 be fair, those future claimants have to be represented  
6 by their own counsel and that's the future and an  
7 expert and that's the future claims representative and  
8 the future claims representative counsel.

9 Q In his communications with the T.C.C. and the  
10 future claims representative in the Amyris bankruptcy,  
11 was Mr. Conlon negotiating on behalf of J and J?

12 A He was.

13 Q And were you communicating with him  
14 throughout that period regarding J and J's positions in  
15 those negotiations?

16 A Extensively.

17 Q And did that include discussion of what J and  
18 J could and could not do, would and would not do, to  
19 resolve the cases that are pending here in New Jersey  
20 and in the Federal M.D.L.?

21 A Yes, it did, as well as, the timing, who to speak  
22 with and when, the amount of claims -- the amount to  
23 which we would be willing to pay to resolve those  
24 claims both on an aggregate basis and a per claim basis  
25 because often times, the settlement could depend on

1 both.

2 There's a per claim basis often times required an  
3 assessment of, what were the anticipated criteria of  
4 the future claimants? In terms of: age, disease state,  
5 severity of disease state, length of exposure. All  
6 those factors would go into assessing how much on a per  
7 claim basis would be or should be made available to the  
8 future claimants, as well as the current claimants.

9 And that was all built into what's called the  
10 settlement matrix. So not all settlements use a  
11 settlement matrix but as part of our discussions, that  
12 was one of the considerations.

13 Q And did Mr. Conlon and his team, during that  
14 period, engage in significant work related to  
15 evaluation of settlement matrices that were being  
16 considered, in connection with resolution of the Talc  
17 claims?

18 MR. POLLOCK: Your Honor, objection. I would  
19 like clarification, when he says, "And his team." The  
20 question here is, what did Mr. Conlon do? I don't know  
21 who the team is. Is the team everybody else who was  
22 working on the case, like Weil Gotshal and Jones Day?  
23 I don't know -- I need to know what Mr. Conlon was  
24 doing specifically, Your Honor.

25 THE COURT: That's a fair objection.

1 MR. BRODY: Yeah and I can clarify, Your  
2 Honor.

3 THE COURT: Sure.

4 BY MR. BRODY:

5 Q That's fine but let me just limit it to Mr.  
6 Conlon. Was Mr. Conlon engaged in the evaluation of  
7 settlement matrices that were being considered as part  
8 of the potential resolution of the cases in the M.C.L.  
9 and the M.D.L.?

10 A Yes, he was extensively involved and he touted his  
11 vast experience in the mass tort field.

12 Q Did that require that he have access to  
13 confidential Johnson and Johnson information?

14 A It did.

15 Q And did he participate in privileged and  
16 confidential discussions of -- you know, including  
17 evaluation of proposals that may have been going back  
18 and forth involving these settlement matrices?

19 A Yes, he did. That extensive -- he had extensive  
20 communications with the team and strident opinions on  
21 the issues.

22 Q Are you familiar with T.D.P. values in the  
23 Amyris bankruptcy?

24 A Tort distribution procedures, yes.

25 Q Okay. Was Mr. Conlon involved in evaluation

1 of --

2 A Or trust distribution procedures, sorry. Thank  
3 you.

4 Q Trust distribution. Yes. Was Mr. Conlon  
5 also involved in evaluation of proposed T.D.P. claim  
6 values in the Amyris bankruptcy?

7 A Yes, he was. He commented extensively on that, as  
8 well.

9 Q And was he part of the J and J team? And  
10 when I say J and J team, I'm talking about the in-house  
11 counsel who were involved, as well as his co-counsel  
12 from the other firms representing J and J; was he  
13 involved in that evaluation?

14 A Yes, he participated in the calls where we  
15 deliberated on those issues. He commented, critiqued,  
16 debated, each of those issues, extensively with the  
17 team.

18 Q Did that include an evaluation of the  
19 proposed claim values and whether Johnson and Johnson  
20 believed they were too high, too low, without getting  
21 into specifics?

22 A Absolutely and it goes to what I was saying  
23 earlier. It's both the aggregate amount and the per-  
24 claim amount. And if I may just digress for a minute  
25 here. That was important, generally speaking because

1 Johnson and Johnson at cord does not believe these  
2 claims have any merit.

3 And this is all a matter of the record that came  
4 out in the bankruptcy, so I'm not revealing any  
5 confidences at this point. But we elected to enter  
6 into settlement agreements because the facts that are  
7 now a matter of the record in the L.T.L. bankruptcy  
8 demonstrated that notwithstanding that we were winning  
9 the vast majority of cases, to try the cases that  
10 existed at the time the first bankruptcy was filed  
11 would have taken 3,800 years.

12 And the calculation of the expenses, not the  
13 judgements but the expenses that would have cost in  
14 order for us to get a resolution over that time frame  
15 was \$190 billion. So in the best interest of our  
16 constituents are patients, are doctors, are nurses, are  
17 employers, employees, are investors. A settlement was  
18 in the best interest of all parties and in particular,  
19 with respect to the claimants too.

20 Because the claimants had come to the cases with a  
21 view that there was some harm that they were caused by  
22 our product because that's what they were advised by  
23 counsel on the other side of the table. And this was  
24 the only way, if we were to enter into the settlement  
25 agreement, it was the only way to get funds to those

1 claimants during their lifetime.

2 And it's the only way to do that while you're also  
3 reserving amounts for the future claims that exist.  
4 Because at the time we were contemplating these  
5 bankruptcies, the entity that actually owned this risk,  
6 it's called Johnson and Johnson Consumer, Inc., was in  
7 the red. That company, in it of itself, could have  
8 gone into bankruptcy before this so-called two-step,  
9 before the divisional mergers.

10 That company could have gone into bankruptcy  
11 because in 2020, it was in the red solely because of  
12 the talc claims. So we contemplated the settlements  
13 because it was in the best interest, in our view, of  
14 all constituents.

15 THE COURT: Let me interrupt.

16 MR. BRODY: Sure.

17 THE COURT: You know, and keeping us focused.  
18 We have a team where and ten times the amount of this  
19 courtroom which are going to be the team. Where does  
20 Mr. Conlon, Mr. Haas, fit into this team? Is there a  
21 hierarchy of attorneys? Just, you know, I want to get  
22 us back to -- and I appreciate the context but where  
23 does Mr. Conlon fit in this team of outside counsel?  
24 Is there a hierarchy?

25 THE WITNESS: I think you could look at some



1 of his public statements, including a recent one on  
2 November 2nd --

3 THE COURT: The Bloomberg article?

4 THE WITNESS: Yeah, as to what he touted  
5 himself to be, which was the premier bankruptcy expert  
6 that ran Sidley's Bankruptcy Department and Mass Tort  
7 Department for 20-some-odd years and had more knowledge  
8 in this area in the resolution and mass torts than  
9 anyone else on the planet.

10 So he came to the team with that perspective  
11 and communicating that expertise and he brought that to  
12 these calls. And when I say that he was actively  
13 involved and he had strong opinions, that is why. So  
14 on every issue that would come up, it was like which is  
15 the right forum, when should we bring a claim, who  
16 should we approach, how should we structure it?

17 Mr. Conlon would bring his expertise to that  
18 matter and give his very strident opinions on what  
19 should be done and critique what were the views of  
20 other very learned counsel, whether it's Weil Gotshal,  
21 Skadden or the other firms. And we had a myriad of  
22 significant firms on these cases.

23 So when you ask for his role, he was a  
24 central figure in strategic decision making, in  
25 connection with this team, throughout the entire

1 process and the entire time frame he was engaged.

2 BY MR. BRODY:

3 Q And Mr. Haas, when you talk about the team  
4 and these weekly calls. I assume you didn't have all  
5 of your Talc Litigation outside counsel on these weekly  
6 calls?

7 A No because we have counsel throughout the country.  
8 There are cases that are tried, literally, in almost  
9 every state in the country. And so we have individual  
10 tort, local counsel throughout. But we had a team that  
11 was comprised of the firms that worked on the large  
12 matters, the M.D.L., the M.C.L. and coordinating  
13 counsel and representatives of the litigants throughout  
14 the country.

15 So what we tried to bring together is every  
16 perspective so when we're trying to decide which is the  
17 best avenue to reside, the biggest liability for  
18 Johnson and Johnson, we would have the impact from  
19 counsel representing all the different constituents.

20 Q And you said Mr. Conlon was a member who  
21 joined those weekly calls?

22 A Yes.

23 Q And would you consider that to be the core  
24 team that was evaluating these issues?

25 A Yes, the core team of premier counsel that were

1 bringing to bear the best advice they had in order to  
2 help us resolve these matters, both through litigation  
3 or resolution outside of litigation.

4 Q And who else at Johnson and Johnson and I'm  
5 referring to in-house counsel now, was involved in  
6 those calls?

7 A So there was -- the main participants in the calls  
8 form the Johnson and Johnson litigation team were:  
9 myself, Joe Braunreuther, Andrew White and John Kim.

10 Q And you mentioned that Mr. Braunreuther was  
11 the Worldwide Head of Litigation immediately preceding  
12 you?

13 A His title was actually the Associate General  
14 Counsel. There was a separate Worldwide Head of Vice  
15 President at that time. When I started, the two roles  
16 were combined.

17 Q Okay and Mr. White, what is Mr. White's role  
18 at Johnson and Johnson?

19 A Mr. White is currently the Product Leader, the  
20 Group Product Leader for Product Liabilities.

21 Q All right and what about Mr. Kim?

22 A Mr. Kim held that role before Mr. White.

23 Q Okay, so these are senior members of the Law  
24 Department at Johnson and Johnson?

25 A Yes.

1           Q     The analysis that we were talking about of  
2     claim values, of settlement matrices. Do you consider  
3     the analysis that Mr. Conlon was involved in, to be  
4     privileged and confidential?

5     A     Absolutely.

6           Q     And would you ever share that with your  
7     opposing counsel in the Talc Litigation?

8     A     Absolutely not.

9           Q     All right. Now, you mentioned that you spoke  
10    to Mr. Conlon at various times about structural  
11    optimization; right?

12    A     (indiscernible)

13          Q     Did you consider your discussions with him to  
14    be privileged and confidential?

15    A     Yes, I did.

16          Q     And was it discussed within the context of  
17    evaluating different options to resolve the cases that  
18    are pending here in the M.C.L. and the federal M.D.L.?

19    A     Yes and to be clear, that is what I considered  
20    privileged. The concept of structural optimization,  
21    per say, is like the concept of bankruptcy, right, it's  
22    a concept. Within that, there are iterations and  
23    various different ways to go about doing that.

24                Structural optimization is just basically the  
25    concept of taking liability and putting it into a

1 particular entity within your organization and then  
2 there's many different things you can do with that.  
3 You can go to bankruptcy with it, you can spin it off,  
4 you can spin part of it off. So there's many different  
5 ways you can structurally optimize.

6 One of the things you can consider as a goal is to  
7 actually continue to hang on to that enterprise but  
8 just not make it part of your consolidated financial  
9 statements. So it's a tool and that tool has many  
10 iterations but what is important are the strategic  
11 considerations of how you go about doing that, with  
12 whom, at which amounts you set as the valuation, that  
13 you're going to need to fund that enterprise in order  
14 to make it a non-fraudulent transfer when you put the  
15 liabilities in there.

16 So there are many, many strategic considerations,  
17 all of which have risks and benefits and pluses and  
18 minuses because it's also in the context of a broader  
19 question of; are you going to get comprehensive  
20 resolution?

21 So even if you do that outside of a bankruptcy, if  
22 you do not have a bankruptcy piece to that, you will  
23 never get comprehensive and final resolution, absence  
24 there being a portion that is resolved through  
25 bankruptcy that addresses future claims. Because the

1 structural optimizations, you will not know until those  
2 future claims come in, what is the magnitude of those  
3 claims.

4 Q Was Mr. Conlon involved in discussion,  
5 privileged and confidential discussion of methods to  
6 estimate the potential value of those future claims?

7 A Yes, both at the aggregate level and at the per-  
8 claim level and the criteria that go into how you set  
9 the per-claim amounts, as well as what exceptions there  
10 may be to that analysis. So what circumstances would  
11 the values be increased and what circumstances would  
12 the values be decreased.

13 Q And was that for both the ovarian cancer  
14 claims and Mesothelioma claims?

15 A Yes.

16 Q Was he involved in analysis of legal  
17 arguments with the potential to impact the number and  
18 viability of future claims?

19 A Yes.

20 Q Did the in-house team share with Mr. Conlon  
21 its views on whether the passage of time might increase  
22 or decrease the value of those future claims?

23 A Absolutely.

24 Q Whether it might increase or decrease the  
25 amount that Johnson and Johnson would be forced to pay

1 to get the finality that you talked about?

2 A Yes.

3 Q Do you consider that to be privileged and  
4 confidential?

5 A I do and I do.

6 Q Was he involved in discussions of how the  
7 risk of trial activity for ovarian cancer and  
8 Mesothelioma claims would change or would not change  
9 over time?

10 A Yes.

11 Q Do you consider that to be privileged and  
12 confidential?

13 A I do.

14 Q Was Mr. Conlon also involved, shifting gears  
15 slightly, in privileged and confidential discussion of  
16 the L.T.L. Management, L.L.C. bankruptcy filing?

17 A Yes, it was.

18 MR. POLLOCK: Objection, Your Honor. Could I  
19 get a point in time, please? This could be important.

20 THE COURT: I agree. Could we have some  
21 clarity with regard to some time frame, Mr. Brody?

22 MR. BRODY: Sure, I'll just ask Mr. Haas.

23 BY MR. BRODY:

24 Q During what time period was he involved in  
25 discussions of, why don't we start with before the

1 bankruptcy filing. If I'm recalling correctly, the  
2 bankruptcy filing was in October of 2021; right?

3 A Yes, October 14th, 2001. Mr. Conlon was involved  
4 in all the discussions regarding the potential for  
5 bringing a bankruptcy in which Johnson and Johnson was  
6 the debtor, which eventually led to the filing of the  
7 L.T.L. bankruptcy.

8 So that's the time frame, 2021, when we were first  
9 negotiating in an attempt to get a resolution through  
10 the Amyris bankruptcy as a third-party debtor. When  
11 that failed, then the consideration was, was there an  
12 option to file our own bankruptcy? And so, those  
13 deliberations continued through 2021, up until October  
14 '21.

15 Mr. Conlon was intimately involved in all of those  
16 discussions and all the considerations that went into  
17 those, that ultimate determination. And thereafter, he  
18 was involved in the advice, strategy, deliberations and  
19 communications regarding how to effectuate that  
20 bankruptcy once filed.

21 Q And did that include discussions with you?

22 A Absolutely, they did. Direct communications, e-  
23 mail communications, communications on group calls and  
24 you know, one-on-one conversations, dinner  
25 conversations, lunch conversations.



1 Q Okay, were Mr. White and Mr. Kim involved in  
2 those conversations?

3 A Absolutely.

4 Q What about the rest of the core, outside  
5 counsel team, that you spoke about?

6 A Yes.

7 Q Did that include evaluation of the potential  
8 value of pending talc claims?

9 A Yes, they did, both at the aggregate level and the  
10 per-claim level.

11 Q And the potential number of future claims?

12 A Yes.

13 Q Of how the bankruptcy filing compared to  
14 other resolutions, potential resolutions that were  
15 available to J and J and again, these are all just -- I  
16 want a yes or a no without any substance.

17 A Significant discussions in that regard.

18 Q Of how Johnson and Johnson viewed the  
19 bankruptcy option compared to structural optimization?

20 A Yes and in connection with variations of the  
21 concept of structural optimization in different  
22 contexts.

23 Q Now, shortly after, a few months after the  
24 October 2021 L.T.L. filing, Mr. Conlon left Faegre  
25 Drinker; right?

1 A I'm sorry, could you ask that question again?

2 Q Yes, sure. End of February 2022, Mr. Conlon  
3 left Faegre Drinker; right?

4 A Yeah, I learned of Mr. Conlon's departure in an e-  
5 mail on, I believe it was March 28th, 2022.

6 Q Okay and what did you learn at that time?

7 A Mr. Conlon told me that he was resigning from  
8 Faegre Drinker and starting a business called Legacy  
9 and Liability, something like that.

10 Q Okay. Was this while the L.T.L. bankruptcy  
11 was still pending?

12 A Yes.

13 Q Did J and J have support for resolution of  
14 its talc liabilities through the L.T.L. bankruptcy  
15 process?

16 A I'm sorry, can you ask that question again?

17 Q Sure. Did J and J have support from  
18 claimants for resolution of its talc liabilities --

19 A Yes.

20 Q -- through the L.T.L. bankruptcy process?

21 A Yes, yes. So Johnson and Johnson had the support  
22 of the vast majority of counsel -- let me state that  
23 differently. Johnson and Johnson had support for  
24 counsel representing the vast majority of claimants in  
25 the L.T.L. bankruptcy.

1           This is a matter of record that -- in the hearing  
2           that was had in the Summer of 2023 before Judge Kaplan  
3           in the (indiscernible) bankruptcy court. One of the  
4           questions he had was, what was the support for the  
5           bankruptcy, for the claimants at that time, before a  
6           vote was taken and what was the opposition to the  
7           bankruptcy from the claimant's perspective?

8           He asked for evidence to be submitted and then he  
9           made findings in that regard. The evidence in that  
10          regard showed that counsel representing 70 percent of  
11          the claimants were supporting our bankruptcy and 20  
12          percent were opposing the bankruptcy.

13          Q     And can you tell me, you know, was Mr.  
14          Birchfield opposing it?

15          A     Mr. Birchfield led the small minority of law firms  
16          that opposed the bankruptcy.

17          Q     Do you know why?

18               MR. POLLOCK: Your Honor, there's ovarian  
19          cancer claims and there's also Mesothelioma claims.

20               THE COURT: Limit it to ovarian cancer?

21               MR. POLLOCK: Well the problem is, I don't  
22          know which group we're talking about here when he says  
23          the majority. I have no break and I could deal with it  
24          on cross if you'd like but frankly, it seems to me that  
25          if we're going to say 70 percent, I would like to know

1       how that 70 percent was gotten.

2               THE COURT: Right and I think that's a fair  
3       question to object, so I'll sustain the objection. Can  
4       you focus back in?

5               THE WITNESS: I can --

6       BY MR. BRODY:

7               Q       Sure, I can ask Mr. Haas, what were you  
8       referring to with the 70 percent?

9       A       It's both. So it's both. The evidence in the  
10      record --

11              THE COURT: Meso and ovarian?

12              THE WITNESS: Involved Meso and -- yeah. In  
13      terms of numbers, there are far, far more ovarian  
14      cancer claims than there are Mesothelioma claims but  
15      the analysis that the Court requested and that was done  
16      pertained to both.

17      BY MR. BRODY:

18              Q       All right. What was the -- and the question  
19      I had asked you before that was, do you know why Mr.  
20      Birchfield opposed it?

21      A       Mr. Birchfield gave a deposition in the bankruptcy  
22      proceeding before Judge Kaplan and in that deposition,  
23      he testified that --

24              THE COURT: That's a deposition transcript  
25      portion, that thing I have?

1 MR. BRODY: You have portions, yes.

2 THE WITNESS: Yeah.

3 THE COURT: Okay.

4 THE WITNESS: He testified that, in addition  
5 to the 40 percent contingency fee that he would obtain  
6 from any resolution with his claimants, he also was  
7 entitled to up top 12 percent for his work and Beasley  
8 Allen's work on the Plaintiff's Steering Committee in  
9 the M.D.L., which would entitle to him to the common  
10 benefit B.

11 So it's 40 percent contingency fee, plus 12  
12 percent of any resolution that was had through the  
13 M.D.L. proceedings. That common benefit B was not  
14 available in the plan that L.T.L. was advancing in the  
15 L.T.L. bankruptcy.

16 BY MR. BRODY:

17 Q And what was the end result of the L.T.L.  
18 bankruptcy?

19 A On July 28th, 2023, Judge Kaplan issued the  
20 decision dismissing the bankruptcy and that decision  
21 currently is on appeal. The Third Circuit took an  
22 expedited appeal directly to the (indiscernible) going  
23 around the district court.

24 Q Did you hear from Mr. Conlon at the time that  
25 Judge Kaplan announced that decision on July 28th?

1 A The very day that the bankruptcy was dismissed on  
2 July 28th, 2023, Mr. Conlon reached out to me.

3 Q Okay and what did he reach out to you to ask,  
4 say?

5 A Mr. Conlon reached out to me to propose that we  
6 have discussions to engage in a structural optimization  
7 transaction.

8 Q Okay, when was the next time you heard from  
9 Mr. Conlon after that?

10 A The next time I heard from Mr. Conlon, I believe,  
11 was on August 21st, 2023.

12 Q Okay and did he have a request or an ask at  
13 that time?

14 A Yeah, he had reached out to our Treasurer, so he  
15 went around me to our Treasurer, and he had asked our  
16 Treasurer for a meeting in order to present that same  
17 structural optimization proposal to the Treasurer.

18 Q And did you agree to set that meeting up?

19 A At that time, having circumvented me and gone to  
20 the business directly, I thought it was incumbent upon  
21 me, therefore, to allow a meeting to be had, so I did.

22 Q Okay. Do you recall when that meeting took  
23 place?

24 A It took place on September 11th, 2023.

25 Q Who attended?

1       A     To my recollection, it was myself, it was the  
2       Treasurer of Johnson and Johnson, Andrew White in the  
3       Litigation Department, the Practice Group Leader for  
4       Product Liability, Mr. Conlon and Mr. Doug Dachille,  
5       who I believe is the C.I.O. of Mr. Conlon's firm.

6           Q     And what happened at the meeting?

7       A     Mr. Conlon and his colleague made a presentation  
8       with respect to the structural optimization approach  
9       that he was proposing at that time. We had discussion  
10      regarding that proposal. The question I repeatedly  
11      asked was, how was it to be funded?

12            Because what was being contemplated by that  
13      particular structural optimization transaction was  
14      that, there would be a divisional merger. We would  
15      take the liability, put it into a new entity and then  
16      sell that entity off to another party. In this place,  
17      he was contemplating Legacy.

18            And or fund that entity as a J and J entity with  
19      sufficient funds to cover the talc liability. Now, of  
20      course that begs the question; what would be then the  
21      amount of funds in order to ensure that, A, if we keep  
22      it on J and J's books, it becomes then de-consolidated,  
23      which was the advantage Mr. Conlon was positing. Or  
24      how much we would have to pay in order to sell it to  
25      Legacy to make it a separate entity.

1 And at that point, the basic proposition from his  
2 perspective was, well, whichever way you do it, Legacy  
3 would run the entire claim administration process and  
4 the resolution of the claims and therefore, earn its  
5 fee from a management fee that it would then charge to  
6 the enterprise that would take on these claims. And  
7 get the spread to the extent they were able to resolve  
8 it for anything less than the funding.

9 Q What happened after the meeting?

10 A Well, because the primary issue that was discussed  
11 was whether and to what extent there had to be funding  
12 for that particular transaction and we had pushed Mr.  
13 Conlon and his colleague on that. The rejoinder that  
14 we got was, well, you have to ask your auditor and  
15 therefore, it became incumbent upon me to have a  
16 conversation with my auditor on the same topic.

17 I did, and my auditor said that under no  
18 circumstances would this be a viable transactions that  
19 we would recognize or allow to be de-consolidated. So  
20 we responded to Mr. Conlon, said that it was not a  
21 viable transaction and we had no interest in  
22 proceeding.

23 Q Okay. Was that the last you heard from Mr.  
24 Conlon about the Legacy proposal?

25 A No, it wasn't.



1 Q When was the next time you heard from Mr.  
2 Conlon, after conveying that it wouldn't work?

3 A I believe it was on September 28th. There was a  
4 communication from his C.I.O., Doug Dachille, to the  
5 Treasurer again.

6 Q Okay and did J and J respond to that?

7 A J and J rejected that inquiry again.

8 Q All right. Judge Porto and Judge Singh are  
9 both aware of the fact and it's in the record that the  
10 Johnson and Johnson third quarter earnings call took  
11 place on October 17th of 2023. There's a copy of the  
12 transcript of that call and your comments about the  
13 Talc Litigation are in the record here, so I don't need  
14 to go into that.

15 But I want to ask you, after that October 17th  
16 earnings call, did you again hear from Mr. Conlon?

17 A We heard from Mr. Conlon the very next day.

18 Q All right and if you turn to, it's Tab 4 in  
19 the hearing binder you have. My first question for you  
20 is, if that's the next day communication that you're  
21 referring to?

22 A Yes, this is the communication that Mr. Conlon  
23 sent to the Treasurer of our company, Dwayne Denarsdell  
24 (phonetic), on October 18th, copying a number of  
25 people, including myself and my colleague, Andrew

1 White.

2 Q Okay. In this communication, Mr. Conlon says  
3 that Legacy has the support of a lead counsel for the  
4 O.C., ovarian cancer claimants, including Andrew  
5 Birchfield, for an M.D.L. option settlement matrix with  
6 Legacy. And then he goes on to say that Andy  
7 Birchfield, Doug Dachille and I are prepared to meet  
8 with you and your team in-person to share and discuss  
9 the terms of such matrix as part of the Legacy  
10 acquisition. Are you with me?

11 A I see what you're referring to.

12 Q What was your reaction to that?

13 A Quite frankly, we had a number of reactions but  
14 the short of it is, we were utterly shocked and  
15 appalled that our former counsel was conferring with  
16 our adversary, the lead adversary that was opposing the  
17 proposal that we had on the table at that time, to get  
18 a comprehensive and final resolution.

19 That, our former counsel was working with that  
20 lead counsel for the claimants, to oppose our  
21 transaction, by proposing an alternative transaction,  
22 based upon the same matter and the same issues that he  
23 had represented us extensively for 21 months.

24 So I mean, my reaction was utter shock and awe,  
25 that I viewed this to be an egregious violation of Mr.

1 Conlon's ethical obligations to J and J, as well as Mr.  
2 Birchfield's ethical obligations. And I reached out to  
3 counsel, in order to begin the process of assessing,  
4 what is the appropriate recourse for that interaction.

5 In addition to that, you know, looking at this.  
6 At that point in time, our understanding was, this was  
7 the first time Mr. Conlon had engaged with Mr.  
8 Birchfield on this alliance where they are now working  
9 together to thwart our proposal because the way I read  
10 it at the time was, to further enhance our solution to  
11 address the potential auditor concern.

12 So this is written in a way to suggest that this  
13 is reactive to the response that we just gave to Mr.  
14 Conlon. So he's writing to us and he's telling us;  
15 well, you raised a concern and now I'm going to join  
16 forces with your adversary to address the issue that  
17 you had raised.

18 And notwithstanding whether it addressed the issue  
19 which it didn't, the manner and mode of which it did  
20 was egregious, in our view and in my view, and was a  
21 blatant violation of his ethical obligations.

22 Q And was this the first time, October 18th of  
23 2023, that you learned that Mr. Conlon was working with  
24 Mr. Birchfield?

25 A Yes, it does and Judge, obviously, I highlighted

1 that point because we now know it wasn't true but I'm  
2 telling you, contemporaneously at the time and given  
3 the way this was written, that is exactly what it was  
4 conveying to us.

5 That suddenly, Mr. Conlon had said, well, let me  
6 go out and now contact the other side and start working  
7 against you. That's egregious. We now know it's even  
8 more egregious because it wasn't the first time.

9 Q Well, that was going to be my next question  
10 for you. Have you since come to learn that Mr. Conlon  
11 and Mr. Birchfield were working together throughout the  
12 pendency of the mediation that was taking place in the  
13 L.T.L. bankruptcy in the Summer of 2023?

14 MR. POLLOCK: Objection, Your Honor. This  
15 goes with the Best Evidence Rule. There is no evidence  
16 that this ever occurred. All I have is rank  
17 speculation from Mr. Haas as to discussions he was not  
18 even a part of. How do I possibly cross examine when  
19 they have not produced a single scrap of paper in the  
20 record to support any of Mr. Haas' hypothesis?

21 All I have is rage from him, I get it, he's  
22 angry but I'm entitled to documents and I can't oppose  
23 a witness when he has not produced the documents that  
24 UNA squarely says, you have a Hobson's choice, produce  
25 it or don't. I am deeply concerned about where this

1 testimony is going because there's no evidence  
2 whatsoever to support it.

3 THE COURT: Mr. Brody.

4 MR. BRODY: Your Honor, well first of all,  
5 Mr. Haas --

6 THE COURT: I believe this is a credibility  
7 determination, to the extent that there's no document  
8 and the Court permits the questions to go forward.

9 MR. BRODY: Well, let me ask Mr. Haas, I  
10 mean.

11 THE COURT: I'll overrule the objection, I'll  
12 give you that opportunity but there is no  
13 documentation. I think we cleared that earlier in one  
14 of our conversations.

15 MR. BRODY: Certainly, Your Honor.

16 BY MR. BRODY:

17 Q Let me ask you, Mr. Haas, when did you first  
18 learn that Mr. Conlon and Beasley Allen were working --  
19 first of all, I don't know if I got an answer to the  
20 prior question before the objection, so let me ask that  
21 one again, just for the record.

22 Have you since come to learn that Mr. Conlon and  
23 Mr. Birchfield were working together throughout the  
24 pendency of the mediation that was taking place in the  
25 L.T.L. bankruptcy in the Spring and Summer of 2023?

1 A Yes, I have.

2 Q When did you first learn that?

3 A About two weeks ago.

4 Q And how did you come to learn that?

5 A By the filings, by the Plaintiff's Steering  
6 Committee, in the multi-district litigation, where they  
7 presented a privilege log which had entries in it  
8 indicating that as early as April 20th, 2023, Mr.  
9 Conlon is communicating with Beasley Allen regarding  
10 settlement proposals to make to a mediator, with  
11 respect to a structural optimization proposal.

12 And then thereafter, the privilege log indicates  
13 myriad communications, myriad, one after another, after  
14 another, after another, since April 2023, concerning  
15 these very same issues and the very same matter that he  
16 represented us as legal counsel on and that now, for  
17 the first time in October 2023, is coming to light.

18 Q Did Mr. Conlon ever tell you that he was  
19 communicating directly with Mr. Birchfield during the  
20 L.T.L. mediation?

21 A He never once mentioned that he was communicating  
22 with Mr. Birchfield or the other members of Beasley  
23 Allen, which per the privilege log they produced,  
24 demonstrate that he was having myriad communications  
25 not just with Mr. Birchfield but with other members of

1 Beasley Allen. Made no mention of that.

2 And indeed, he communicated me on May 10th, 2023,  
3 shortly after he began working with Mr. Birchfield and  
4 in that respect, never once mentioned that he had now  
5 entered into this alliance with Mr. Birchfield, never  
6 asked for my consent on behalf of J and J to work with  
7 Mr. Birchfield, on the same matter, on the same issues.

8 Never asked for a waiver as to whether or not he  
9 should be able to work on the same matter and the same  
10 issues that he represented Johnson and Johnson on  
11 throughout 2021 into 2022.

12 Q Has he ever come to you at any point in time  
13 and asked for a waiver?

14 A Not once.

15 Q Has Johnson and Johnson ever given him a  
16 waiver?

17 A Not once.

18 Q You mentioned other members of Beasley Allen  
19 whose communications are included on that privilege  
20 log; can you tell me who?

21 A Ms. Laila O'Dell (phonetic), Mr. Ted Meadows and  
22 there's other individuals at the firm that, their names  
23 and their e-mail addresses are listed but I don't know  
24 them in particular.

25 MR. BRODY: Okay. Judge Porto, that

1 privilege log is actually now on the docket in the  
2 federal M.D.L. and we would ask that this Court take  
3 judicial notice of that privilege log and its contents,  
4 pursuant to Rule 201:B-4.

5 THE COURT: I get it. Judge Singh, any  
6 thought? I have not seen it --

7 MR. POLLOCK: Can I be heard, Your Honor?

8 THE COURT: Sure.

9 MR. POLLOCK: I'm sorry, before you  
10 deliberate. The -- before Judge Singh and before you,  
11 Mr. Brody has repeatedly been asked, are we complete,  
12 is the record done? And the answer is yes. Now,  
13 suddenly, we're going to go outside the record. It's  
14 obviously in the Court's discretion. I understand --

15 THE COURT: Have you seen that privilege log?

16 MR. POLLOCK: I have not seen the privilege  
17 log but I frankly don't really care because while I  
18 care deeply about this case, fine, they had  
19 discussions. I have no doubt that they did. There has  
20 been no evidence as to what was discussed and I'm not  
21 sure how they would get into it because it's mediation  
22 privileged.

23 But to be honest with you, I think that the  
24 -- to now try and say, hey, we're going to keep on  
25 expanding this, keep on expanding this. At some time,



1 Beasley Allen and Andy Birchfield are entitled to a  
2 determination, whether the motion for disqualification  
3 is going to be granted or not.

4 And you -- Judge Singh asked pointedly, is  
5 the record complete? And Mr. Brody said, pointedly,  
6 yes. I was surprised by the answer but he pointedly  
7 said yes. He didn't say, I want more stuff in there.  
8 And to me, if we open this, there is another set of  
9 documents that could also come in because Judge Snyder  
10 ruled upon those.

11 We could just keep on expanding this but at  
12 some point, we have to reach the hard point where we  
13 make a decision and I'm relying upon representation  
14 that was made to the Court that we're done.

15 MR. BRODY: Your Honor, this privilege log  
16 was just provided by the Plaintiff Steering Committee,  
17 in the M.D.L., about two and a half weeks ago. It was  
18 a shock to us, to learn that there were communications  
19 going on, back and forth, between Mr. Birchfield and  
20 Mr. Conlon, for a period of, starting at late-April of  
21 -- starting in late-April of 2023 and the extent of  
22 those communications.

23 And it is certainly a fact that is directly  
24 relevant to the disqualification motion. It's been  
25 filed in court, it is on the docket in the M.D.L. and

1 obviously, Your Honor under 201:B-4, you can take  
2 judicial notice of the records and court proceedings  
3 throughout the State of New Jersey, federal court or  
4 state court.

5 MR. POLLOCK: May I respond briefly, Judge?

6 THE COURT: Well, hold on. Let me see if  
7 Judge Singh has some thoughts.

8 JUDGE SINGH: No, it's interesting because  
9 the privilege log is on the public docket in the M.D.L.  
10 and it's, as I understand it, Judge Snyder has ruled in  
11 regards to those documents are to be maintained as  
12 privileged, however, the fact of the communications  
13 within the law, it's hard to close that once it's  
14 already on the docket.

15 I personally would think it is part of the  
16 record and something that the Court could consider, at  
17 least in the context of my review but I defer to Judge  
18 Porto as to your comfort level.

19 THE COURT: And I agree but what troubles me  
20 is, Mr. Haas has not seen that. And when we talk about  
21 the record being open, the record being closed. I'm  
22 just learning about that today. I didn't get any  
23 indication that, that was a possibility, two weeks ago.

24 MR. POLLOCK: Your Honor, actually, this  
25 referenced in Mr. Birchfield's supplemental

1 certification. So this is not shocking news but the --

2 THE COURT: No but the fact is, it is in the  
3 context of, I don't know what we're talking about.

4 MR. POLLOCK: I agree completely. So I'm not  
5 prepared to proceed, I do not want to delay the  
6 deliberations. The mere fact that I have not reviewed  
7 them does not stop me right now because frankly, under  
8 the mediation privilege, these documents are going to  
9 be inadmissible anyway.

10 They are non-discoverable under New Jersey  
11 Law. So the fact that they communicated, I'll  
12 stipulate to it, they communicated.

13 THE COURT: And I will take judicial notice  
14 of that being on the docket.

15 MR. BRODY: And -- yeah and Your Honor, let  
16 me just ask this question to Mr. Haas, as a follow-up.

17 BY MR. BRODY:

18 Q Did it -- I mean, did it surprise you to  
19 learn two weeks ago that these communications had been  
20 going on back and forth throughout May, June, July and  
21 August of last year?

22 A I think what I said was, I was shocked and  
23 appalled and yes, it surprised me. It surprised me  
24 that someone who had purported to have the caliper of  
25 standing in the bar that Mr. Conlon did, would engage

1 in this behavior.

2 That Mr. Birchfield would further foster,  
3 facilitate and engage in that conduct, is the most  
4 egregious breach of ethical obligations I have ever  
5 heard of, ever seen. So yeah, it surprised me, it  
6 shocked me, it disappointed me, quite frankly, in many  
7 respects, with respect to Mr. Conlon, in terms of his  
8 standing as a lawyer. And as, quite frankly, a trusted  
9 advisor of mine for a good part of the time we worked  
10 together.

11 Q Are you aware that the Plaintiff Steering  
12 Committee in the M.D.L. has taken the position that  
13 it's communications with Mr. Conlon are confidential  
14 and protected by a mediation privilege?

15 A I'm aware that they've taken that position.

16 Q That their communications should remain  
17 secret from J and J?

18 A Yes, they've taken that position.

19 Q Would you have taken steps, if you had known  
20 at the time, to prevent Mr. Conlon from working with  
21 Mr. Birchfield, with Ms. O'Dell and others at Beasley  
22 Allen, during the course of the L.T.L. mediation?

23 A I think we would be exactly where we are today but  
24 we would have been there a lot earlier because I would  
25 have taken immediate action, had I known this was

1 occurring.

2 And quite frankly, I think this would be an issue  
3 that would have been adjudicated in the context of the  
4 bankruptcy court because to have someone side-switch in  
5 a matter where you're dealing with the same issues, the  
6 very same issues, that we have extensively adjudicated,  
7 deliberated, considered, communicated, is egregious.

8 Q Turning back to Hearing Exhibit 4, that was  
9 the October 18th e-mail. How did J and J, other than  
10 you indicated that you started looking with counsel  
11 about what you could do about the fact that Mr.  
12 Birchfield, that you weren't at that time, for the  
13 first time, that Mr. Birchfield was working with Mr.  
14 Conlon, as to the substance of the proposal. What did  
15 Johnson and Johnson do, how did Johnson and Johnson  
16 respond?

17 A Well, in terms of whether or not we were going to  
18 sit down with Mr. Birchfield and Conlon to talk about a  
19 proposal, that clearly was inappropriate and was  
20 rejected.

21 Q Fast-forward to two weeks later and if you  
22 would turn to, it's Tab 15 in the binder. And I'll ask  
23 you if you recognize this document?

24 A This is a document that is an article that Mr.  
25 Conlon secured publication for on November 2nd, 2023

1 and that got significant pick-up in the press. And in  
2 this article, Mr. Conlon begins by stating that, he is  
3 a former Austin (indiscernible) structuring chair and  
4 that he's proposing an alternative to the Texas Two-  
5 Step that provides finality to the company and relief  
6 to injured plaintiffs.

7 And from the outset, what struck me when I read  
8 that very first line, that he did not mention Faegre  
9 Drinker, which is the company he was working at, the  
10 law firm he was working at, when he was representing  
11 Johnson and Johnson and that omission immediately  
12 struck me as telling.

13 And as you read through the rest of the article, I  
14 think it becomes evident why because in this article,  
15 he takes positions directly adverse --

16 MR. POLLOCK: Your Honor, this is narrative  
17 testimony. I recognize this is direct examination but  
18 to me, if I wanted a lecture, I could listen to it.  
19 Otherwise, it's literally just plug and play here. I  
20 think there should be questioning, with all due  
21 respect, it's your courtroom.

22 THE COURT: Mr. Brody?

23 MR. BRODY: Mr. Haas --

24 THE COURT: I don't -- you know, there are  
25 some aspects where a narrative is certainly appropriate

1 but if we could have direct testimony, guided by  
2 questions.

3 MR. BRODY: Your Honor, I'll just ask two  
4 questions and I think we can address this.

5 THE COURT: Sure and I'm not suggesting, you  
6 know, anything is improper. You know, we have an  
7 objection and if we could refocus and then have the  
8 question direct the witness.

9 MR. BRODY: Yeah, of course, Your Honor. No,  
10 absolutely.

11 BY MR. BRODY:

12 Q Were you upset when you saw this?

13 A I was upset.

14 Q Why were you upset?

15 A Because if you look at the second paragraph, it  
16 pertains not only to other companies but L.T.L. So Mr.  
17 Conlon is purporting to write as a Sidley partner,  
18 disregarding the time frame that he represented the  
19 L.T.L. and he's writing an opinion piece about L.T.L.  
20 that then addresses the matters and the issues that he  
21 worked on for us.

22 And that second paragraph, at the top there where  
23 he says, these are a list of failed attempts to engage  
24 in this restructuring and he lists Bestwell, D.P.M.P.,  
25 L-Didge Pump, Murray Boiler. I would note from the

1       outset, those aren't failed attempts. Those other  
2       entities are going forward with this very restructuring  
3       that we had in L.T.L.

4             The only difference between the two is, they're in  
5       the Fourth Circuit, where they are moving forward. And  
6       the ability to move forward with that transaction is  
7       being appealed up to the Fourth Circuit but the  
8       bankruptcy courts have endorsed it. While in the Third  
9       Circuit, given the new standard the Third Circuit  
10      imposed, L.T.L. is now appealing the motion -- the  
11      decision to dismiss.

12            That's a circuit split, which ultimately will be  
13      resolved by the higher courts. But it is important to  
14      note there that, this is an inaccurate statement from  
15      the outset, framing the issue. But what's more  
16      important as it goes on in the article is he actually  
17      takes position with respect to what the companies,  
18      including L.T.L.'s positions were, what the companies  
19      believed.

20            He's representing in an article what we believed.  
21      That's based upon his communications with us, while he  
22      was our counsel. And this was a part of his alliance  
23      with Mr. Birchfield, who came out the same day with a  
24      press release supporting it.

25            So this is part and parcel of the facilitation of



1 attempts to come out with a competing proposal to  
2 thwart the proposal that we were having discussions on  
3 at this very time.

4 And Judge, it's just for a little context. So  
5 after the July --

6 MR. POLLOCK: Your Honor, again, if we could  
7 have some questioning, it would be helpful for a break,  
8 as opposed to a narrative.

9 THE COURT: I think that's appropriate. So  
10 why don't you guide the questioning again, Mr. Brody.

11 MR. BRODY: Sure.

12 BY MR. BRODY:

13 Q Mr. Haas, you explained why this was  
14 upsetting to you and why it was a concern to you. If  
15 you would, please explain, you know, did you see this  
16 in the context of the overall effort by Mr. Conlon and  
17 Mr. Birchfield to advance their proposal as something  
18 other than the bankruptcy proposal that you had  
19 indicated publically on October 17th of last year, that  
20 the company preferred?

21 A Yes. So earlier, Mr. Brody made reference to the  
22 October 17th earning statement that I made.

23 THE COURT: Call.

24 THE WITNESS: Earning call, very good, Judge.  
25 On that call, I made a statement about what our

1 strategy was following the July 28th, 2023 dismissal by  
2 Judge Kaplan. What I explained on the call was, we had  
3 a multi-step strategy to move forward in order to  
4 obtain a complete and final resolution of the talc  
5 claims.

6 The first one we already discussed which was  
7 appealing the circuit split now up to the higher  
8 courts. The second proposal, which I made publically,  
9 the second pathway that I explained publically, was to  
10 pursue a resolution, a consensual resolution, through  
11 bankruptcy again.

12 Now, why was that? In the July 28th, 2023  
13 decision by Judge Kaplan, he found that the parties,  
14 L.T.L. and the majority of claimants that were  
15 supporting the plan, had made, in his terms, remarkable  
16 progress toward getting a equitable and final  
17 resolution.

18 And then, he thereafter, strongly recommended  
19 and urged the parties to continue to pursue that  
20 resolution through another bankruptcy. So I made clear  
21 on the earnings call that, that is exactly what I  
22 intended to do, with the same amount that we were  
23 proposing through the prior bankruptcy --

24 THE COURT: \$9.9 million?

25 THE WITNESS: It was 8.9, yeah.

1 THE COURT: 8.9.

2 THE WITNESS: Yeah and this proposal that was  
3 being proposed by Mr. Conlon with Mr. Birchfield,  
4 contemplated a \$19 billion resolution and was  
5 attempting to garner support through these articles to  
6 oppose, to thwart, our ability to get a resolution.

7 So that is why I viewed this as part of the  
8 alliance between the two, in order to thwart our  
9 efforts for a comprehensive resolution because Mr.  
10 Birchfield doesn't want a resolution and bankruptcy for  
11 the conflict that we've previously discussed.

12 BY MR. BRODY:

13 Q And just for the record, you referred to a  
14 contemporaneous publication or near-contemporaneous  
15 publication the same day by Mr. Birchfield. Do you  
16 recognize that as what is behind Tab 18 in the binder?

17 A Yes, I do.

18 Q All right.

19 A And this was picked up by a number of different  
20 media outlets.

21 Q And then moving ahead, you mentioned the \$19  
22 billion that was attached to the Birchfield-Conlon  
23 proposal. When did you first learn that there was a  
24 \$19 billion price tag attached to their proposal?

25 A On November 19th, notwithstanding our repeated

1       rejections of the proposal that --

2               Q       November 9th, I believe.

3       A       Excuse me, quite correct. November 9th,  
4       notwithstanding that we had repeatedly rejected Mr.  
5       Conlon's proposals over the course of years but also  
6       through the iterative requests since the dismissal of  
7       the bankruptcy. On the 9th, he circumvented not only  
8       me but then he circumvented the Treasurer and he sent a  
9       correspondence directly to our C.E.O.

10              And in that -- correspondence, he purported to say  
11       the Board, quote, "Must consider this proposal," and in  
12       that, he described the proposal that he had developed  
13       with Mr. Birchfield that was demanding a \$19 billion  
14       payment to Legacy in order to resolve the talc claims  
15       by taking them off of the company's books through this  
16       structural optimization move, which we had already been  
17       advised would not work.

18              Q       And if you would, in the binder, if you  
19       could, just refer to the Document 7 and let me know if  
20       that's the communication you're referring to?

21       A       Yes, this is the document I was referring to and  
22       --

23              Q       Now, let me preface it with a question, first  
24       of all.

25       A       Sure.

1 Q The -- the document indicates in the second  
2 paragraph -- this is a letter from Mr. Conlon; is it?

3 A Yes, it is.

4 Q And it attaches, at the last page, a proposed  
5 settlement matrix; do you see that?

6 A Yes.

7 Q Is this the first time the settlement matrix  
8 associated with the Conlon-Birchfield proposal had been  
9 shared with you?

10 A It was.

11 Q Okay, all right. If you turn back to the  
12 first page of the document, there's an indication in  
13 the second paragraph of Mr. Conlon's letter that,  
14 "Importantly, Legacy's proposal has been reviewed and  
15 supported by leadership counsel on both the Federal  
16 M.D.L. and in State Court cases across the country."  
17 Do you see that?

18 A Yes.

19 Q So what was your reaction to the fact that  
20 you were being told that, this proposal had been shared  
21 by Mr. Conlon and Mr. Birchfield with Plaintiff's  
22 Counsel, your opposing counsel, before your former  
23 lawyer brought it to you?

24 MR. POLLOCK: Objection, Your Honor, the  
25 document doesn't state that, on its face. It doesn't

1 say Mr. Conlon shared this with anybody -- Mr.  
2 Birchfield shared this with anyone.

3 THE COURT: Mr. Brody? I see the sentence.

4 MR. BRODY: I'll just ask --

5 THE COURT: Yeah.

6 BY MR. BRODY:

7 Q What was your reaction to this?

8 A My -- again, I found this completely remarkable  
9 because this is a further disclosure of just how far  
10 the communications between Mr. Conlon and Mr.  
11 Birchfield had gone and what the considerations were.

12 If you go to the final page that Mr. Brody just  
13 referred to, the settlement matrix, which involves a  
14 per claim analysis and across the top and along the  
15 columns on the side, you'll see the various criteria  
16 that go into the development of the per claims amounts.

17 And there's a huge amount of deliberation and  
18 consideration that goes into that and the idea that Mr.  
19 Conlon, our former counsel who had engaged in  
20 discussions of the pluses and minuses, of the strengths  
21 and the weaknesses, of the disadvantages and the  
22 advantages of different offers to us and where we stood  
23 to be in a better position, where we stood to be in a  
24 more challenging position, is egregious.

25 I mean, he is effectively taking our inside

1 perspective and providing it to the alliance with Mr.  
2 Birchfield so that they can thwart our offer. It's  
3 really beyond the pale. And the idea that our counsel  
4 is now our primary adversary and aligned with the lead  
5 adversary in the Talc litigations, which they purport  
6 to be in each of these forums, it's just amazing.

7 And I really, I am almost at a loss of words about  
8 how upsetting this was when we saw this and how  
9 upsetting it was for the organization.

10 MR. POLLOCK: Your Honor, I move to strike  
11 all the testimony regarding Andrew Birchfield, as there  
12 is zero support anywhere from Mr. Haas that Mr.  
13 Birchfield had anything to do with this communication.  
14 He keeps on railing on my client, as he's entitled to  
15 do.

16 He can dislike him as much as he wants. I'm  
17 entitled to proof. There is no evidence that Mr.  
18 Birchfield ever had any participation in this document.

19 THE COURT: Mr. Brody?

20 MR. BRODY: Your Honor, Mr. Haas has just  
21 testified to two weeks, three weeks, prior to when this  
22 document was sent. He got a communication from Mr.  
23 Conlon saying that he had developed a settlement matrix  
24 and that Mr. Conlon and Mr. Birchfield were prepared to  
25 come in together and discuss it.

1                   And this follow-up communication says  
2                   specifically that the proposal has been reviewed by  
3                   leadership counsel in the Federal M.D.L. and the State  
4                   Court. It's not, you know, that's a -- I don't think  
5                   it's a valid objection. It's a subject for cross  
6                   examination and I'm sure that Mr. Pollock can ask Mr.  
7                   Haas questions about that.

8                   THE COURT: I'm going to overrule the  
9                   objection. It will be subject to cross examination.

10                  MR. BRODY: Thank you.

11                  THE COURT: Which, we're going on about an  
12                  hour and a half now. Is anybody looking for a break?

13                  MR. BRODY: I just, if possible, Your Honor,  
14                  I have about four or five more questions total.

15                  THE COURT: That's fine but I think it was an  
16                  appropriate time to ask that question.

17                  MR. BRODY: Certainly. We can break now, if  
18                  you prefer.

19                  THE COURT: No, I'm not going to break the  
20                  momentum but you may continue.

21                  MR. BRODY: Sure.

22                  BY MR. BRODY:

23                  Q     Mr. Haas, I want to draw your attention to a  
24                  sentence that starts at the bottom of the first page of  
25                  this November 9th letter. With the word indeed. He



1 wrote, "Indeed, if such a plan were confirmed, it  
2 simply cannot free J and J of its direct liability."

3 Do you see that?

4 A I do.

5 Q And was that something that caused you  
6 concern?

7 A He's speaking to the plan that we're proposing.  
8 There is our former counsel who provided advice on that  
9 very issue, inconsistent with what he's saying here but  
10 he's basically taking a position with respect to a plan  
11 we are currently proposing that has been deliberated  
12 extensively over the course of the time frame in which  
13 he was our counsel and now he's going out and opining  
14 that it will never work. This is our advocate,  
15 advocating against us.

16 Q Have you learned, Mr. Haas, that not only is  
17 this something that was being advanced through the  
18 Bloomberg article and the press release that we saw  
19 from November 2nd in the media but also that, it was  
20 being advanced with the investment community?

21 A So immediately after receiving this, I sent an e-  
22 mail to Mr. Conlon's firm saying; stop it, you're  
23 breaching your ethical obligations. Ignored.

24 On the 15th of November, I believe that was the  
25 right date, we received notice that Mr. Birchfield and

1 Mr. Conlon were then pending an investor conference,  
2 the Gordon Haskett Conference, in which they were going  
3 to present this very proposal.

4 MR. POLLOCK: Objection, speculation as to  
5 what they were going to present.

6 THE COURT: Sustained.

7 BY MR. BRODY:

8 Q I'm sorry, did you at that time come to have  
9 an understanding of what they were going to present?

10 A We were advised that Mr. Birchfield and Mr. Conlon  
11 were making a proposal at an investor conference, the  
12 Gordon Haskett Conference, regarding the resolution of  
13 the talc claims.

14 MR. POLLOCK: Same objection, Your Honor. We  
15 were advised. Rank hearsay, I move to strike.

16 THE COURT: I agree, I sustain the objection.

17 MR. BRODY: That's fine, Your Honor.

18 BY MR. BRODY:

19 Q Mr. Haas, before we conclude, I want to bring  
20 you back to last summer. What was going on in the  
21 L.T.L. bankruptcy last summer when Mr. Conlon was  
22 engaged in these, what they say are, privileged  
23 communications with Mr. Birchfield and Ms. O'Dell and  
24 others at Beasley Allen?

25 A There was extensive motion practice. The motion

1 to dismiss that Mr. Beasley -- Mr. Birchfield was  
2 leading. There was extensive discovery with respect to  
3 that, motion practice. It ultimately culminated in a  
4 week-long hearing on a motion to dismiss, followed by  
5 extensive post-trial findings of fact and conclusions  
6 of law.

7 I suffice it to say there were myriad  
8 opportunities for either Mr. Conlon or Mr. Birchfield  
9 to disclose the alliance that they had formed at that  
10 time and not once, not once in any of those motions,  
11 submissions, discoveries, including the deposition of  
12 Mr. Birchfield or in the week-long intensive hearing  
13 followed by a full briefing on the motion to dismiss,  
14 did they ever disclose that Mr. Conlon was working with  
15 Mr. Birchfield.

16 And Mr. Conlon never approached me for a waiver or  
17 anyone at my firm and never once asked for consent to  
18 engage in that relationship, not once. There were  
19 untold opportunities to do so and he never did.

20 Q And is it concerning to you now to know that  
21 while Johnson and Johnson was engaged in mediation with  
22 the T.C.C. in the L.T.L. bankruptcy, that your former  
23 lawyer Mr. Conlon was communicating directly,  
24 collaborating directly, with Mr. Birchfield and his  
25 firm, on the other side of that mediation?

1 MR. POLLOCK: Objection to the word  
2 collaborating. Again, it is conspiracy either in the  
3 cover of darkness. They were working together, yes but  
4 there's no proof of anything else beyond the fact that  
5 they were communicating.

6 THE WITNESS: I can answer without  
7 (indiscernible)

8 THE COURT: May be a choice of word?

9 BY MR. BRODY:

10 Q It may be a choice of word and Your Honor, we  
11 will definitely get to collaborating today but for now,  
12 I'll just ask you. Knowing now what you know from the  
13 privilege claims that have been asserted by the  
14 Plaintiff Steering Committee and what you know about  
15 the work, communications, that were going on, in  
16 secret, on the other side of that mediation; is that a  
17 concern to you?

18 A I go back to what I said earlier. This  
19 fundamentally undermines the entire judicial process.  
20 It provides an unfair advantage to an adversary in an  
21 adversarial system. The conversations that were being  
22 had by the disclosures in the privilege log and based  
23 upon the declaration submitted by Mr. Birchfield,  
24 indicated they involve the same matters and the same  
25 issues for which Mr. Conlon was representing us.

1           Having those communications, by their very nature,  
2           is a violation of his duties to us because those  
3           conversations necessarily are imbued with the  
4           confidential work product, privileged information we  
5           conveyed to Mr. Conlon and at extensive discussion and  
6           deliberation.

7           So I go back to the core principal, it contravenes  
8           the judicial process, it's contrary to the interest of  
9           justice and it fundamentally undermines the adversarial  
10          system.

11          Q       Was Mr. Conlon privy to privileged and  
12          confidential information about J and J's negotiating  
13          strategy, in its attempt to resolve the litigations  
14          pending in New Jersey and in the M.D.L., that you  
15          believe would be directly relevant to the L.T.L.  
16          bankruptcy mediation that went on last summer?

17                 MR. POLLOCK: Your Honor, I object. There  
18          has been multiple efforts at a settlement. There was  
19          an effort within Amyris, there was an effort within  
20          L.T.L., then there was L.T.L.2, there's been mediation  
21          before people. I have no clue what time period we're  
22          asking about --

23                 THE COURT: Well, it was last summer. Any  
24          particular time --

25                 MR. POLLOCK: Is that the only time period?

1 THE COURT: Yeah, that was the time period.

2 MR. BRODY: My question --

3 THE COURT: Right, was that it?

4 MR. BRODY: I can rephrase it, Your Honor.

5 THE COURT: Okay.

6 BY MR. BRODY:

7 Q My question is, based on your knowledge of  
8 the privileged and confidential communications that Mr.  
9 Conlon was exposed to, whether it be talking about  
10 potential resolution for the tort system, resolution  
11 through the Amyris bankruptcy, resolution through  
12 M.D.L., are those confidential and privileged  
13 discussions that he was involved in relevant to the  
14 mediation that took place last summer?

15 MR. POLLOCK: Your Honor, again, same  
16 objection. Multiple discussions regarding M.D.L. I  
17 can't even remember what the litany was, it was that  
18 long. I am entitled, when my client is accused of  
19 having violated the Rules of Professional Conduct, to  
20 some facts.

21 That's what True-Post says, I'm entitled to  
22 some facts. I would like to know what discussions,  
23 what date, what year, where were they, what happened?  
24 Because right now, I have no clue, I'm attacking a  
25 boogeyman. I can't do it if I don't know what it looks

1 like.

2 THE WITNESS: I can answer without

3 (indiscernible)

4 THE COURT: Well, I understood the question.

5 Mr. Haas, you understand the question.

6 THE WITNESS: Yes, sir.

7 THE COURT: So I'm overruling the objection  
8 but you know, the time frame is last summer. So is it  
9 June, July, August? July, June, August, what's, in  
10 terms of summer?

11 BY MR. BRODY:

12 Q My question is, is the privileged and  
13 confidential information that Mr. Conlon learned during  
14 the 20 months that he represented J and J relevant to  
15 the mediation discussions that were going on in May,  
16 June and July of last year, in the L.T.L. bankruptcy?

17 MR. POLLOCK: This is precisely my objection,  
18 Your Honor. He is morphing time frames. He is not  
19 talking about after Mr. Conlon formed Legacy. He is --  
20 Mr. Brody is asking about all this stuff you learned  
21 beforehand, whatever that time period was, is it  
22 relevant to what's occurring now.

23 And if that's true, if that's really his  
24 question which I think it is, I would like to know  
25 which one, Amyris, L.T.L.? Which discussions, where

1 did they occur, what was discussed? Because I have no  
2 idea how to value relevance. UNA says clearly, you  
3 have a Hobson's choice. Put the documents in or tell  
4 us what the discussions are or you don't have the  
5 argument.

6 What they want to do is have the best of both  
7 worlds. They want to say, I'm not going to give you  
8 the facts but it's generally true, we talked about some  
9 stuff and it's relevant to now. I want to know, if  
10 we're going to go here and this is our big wind-up, I  
11 would like to know exactly what was discussed and when.

12 THE COURT: Well, one of the points raised in  
13 one of the certifications, I think it was probably Mr.  
14 Birchfield saying, whatever Mr. Conlon learned, it's  
15 now dated.

16 MR. POLLOCK: Correct.

17 THE COURT: Right?

18 MR. POLLOCK: Yes, sir, that's exactly my  
19 point.

20 THE COURT: Well and now -- and I'm not  
21 making anybody's argument here but Mr. Brody is now  
22 saying, is it now irrelevant in contrary to the dated  
23 statement? So I'm going to overrule the objection.  
24 You can ask that question. Do you understand that  
25 question (indiscernible)



1 THE WITNESS: I do, Judge and I think I can  
2 answer it because I think it goes exactly to that  
3 point. Because what we were discussing through that  
4 time frame when Mr. Conlon was representing Johnson and  
5 Johnson, is relevant to each of the mediations and to  
6 what currently is going on now because it's the same  
7 issues and the same deliberations that were pertinent  
8 during the time frame when he was counsel are pertinent  
9 now.

10 Because what form, what structure, what are  
11 the advantages and disadvantages of both? What -- how  
12 do you value the claims, both from the current claims  
13 and the future? Those same claims -- and keep in mind,  
14 the one thing that is significant here in terms of  
15 timing is that time froze during the time frame the  
16 bankruptcies were in place, October of 2021 through  
17 July 28th, 2023 because of the automatic stay.

18 So all of those factors that were discussed  
19 are highly pertinent to the resolutions throughout that  
20 period and the discussions throughout that period and  
21 as they are today. And so it is: forum, when, who,  
22 aggregate claim amount, per claim amount, factors to  
23 consider, how to value future claims, you know, the  
24 timing of future claims, what factors go into whether  
25 or not future claims are going to escalate or de-

1       escalate.

2               All of those things were the subject of many  
3       conversations with Mr. Conlon and his views that he  
4       expressed and that he commented on and that we conveyed  
5       to him, are just as pertinent in those mediations that  
6       happened each time because the same issues came up as  
7       they are to this day.

8               So they are squarely relevant to the issues  
9       and it is an unfair advantage for him to have any  
10      conversations, communications, on those issues, with  
11      Mr. Birchfield to develop a counter-veiling proposal  
12      because necessarily imbued in those conversations, no  
13      matter how he communicates, are our views. And that  
14      really, that is why this is fundamentally undermining  
15      the integrity of the process.

16              MR. BRODY: Thank you, Mr. Haas. That's all  
17      I have, Your Honor.

18              THE COURT: We'll take a break. Judge Singh  
19      and I may have some questions. I generally like to ask  
20      questions before we go to cross examination so that  
21      counsel can direct it or address it and then Mr.  
22      Pollock will have an opportunity to conduct cross, all  
23      right?

24              MR. POLLOCK: Thank you, Your Honor, honors.

25              COURT OFFICER: All rise.

1 THE COURT: All right, we'll go off the  
2 record. Take 15?

3 MR. POLLOCK: Yes, sir.

4 THE COURT: All right and no discussions, Mr.  
5 Haas, with counsel regarding your testimony.

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you.

8 (Off the record at 11:20:10 a.m., back on the record at  
9 11:40:28 a.m.)

10 COURT OFFICER: All rise.

11 THE COURT: Thank you, all, please be seated.  
12 We have a few questions. Where is Mr. Haas. Mr. Haas,  
13 you're still under oath.

14 THE WITNESS: Yes, sir.

15 THE COURT: Ms. Singh?

16 VOIR DIRE EXAMINATION BY THE COURT:

17 Q Oh, yes, thank you. We wanted to direct your  
18 attention to the exhibit that was talked about earlier.  
19 Exhibit 7, I believe it is, the November 9th, 2023  
20 letter?

21 A Yes, Your Honor.

22 Q And we're curious about the attached matrix.  
23 Has the categories within this proposed matrix come up  
24 in prior mediations, settlement discussions, et cetera?

25 A Yes, Your Honor, they have. The age, the disease

1 state, the severity of the disease state, the length at  
2 which the disease has been -- had. Each one of these  
3 has, if you go across the top and along the column on  
4 the left, each one of these are different criteria that  
5 have come up repeatedly, in every single one of the  
6 settlement discussions we've had, going back to I would  
7 say the 2020 discussions.

8 And there's a reference in the papers about a  
9 Beasley Allen proposal in the Fall of 2020. I believe  
10 it was a 3.5, a \$3.25 billion proposal for an ovarian  
11 settlement. There was a grid that had these criteria  
12 and others. Again, in the Spring of 2021, there was  
13 another proposal, same types of criteria.

14 What often times is, this will be the base  
15 criteria and then you'll have additional considerations  
16 when it's drafted up. I will speak to other factors  
17 that will increase or decrease the amount, such as  
18 familial history of cancer, genetic issues that the  
19 individual claimant may or may not have, time  
20 limitations that may or may not impact the running of  
21 the statute of limitations.

22 But those other ones are always layered on when  
23 you get to the final drafting of the documents but to  
24 answer your question, yes.

25 THE COURT: Okay, thank you. Judge Porto?

1 BY THE COURT:

2 Q This matrix, when was this developed?

3 A Well, this particular matrix, the numbers here are  
4 different than the numbers. The matrix concept is not  
5 new to this particular tort but the considerations and  
6 what numbers are to go in were discussed from the  
7 outset of Mr. Conlon's representation right through.

8 Q Specifically, which numbers?

9 A Which numbers?

10 Q All the numbers, a particular category of  
11 numbers?

12 A Oh, both the aggregate and the individuals, okay  
13 and that, Your Honor, that is a very good question  
14 because often times, the aggregate number drives the  
15 individuals. And there are components of that, that  
16 have to be taken into account, whether or not you're  
17 just contemplating futures, just contemplating current  
18 or a combination of both.

19 Q So when you say within the time frame that  
20 Mr. Conlon was with Faegre Drinker, those 18 months or  
21 whatever it was, 21 months --

22 A Yes.

23 Q -- that was there?

24 A Yes, Your Honor.

25 Q And so we can trace that origination to that

1 particular time?

2 A You can trace the schedules and numbers in  
3 schedules and they're going to vary because of the  
4 advice of counsel that was given. Clearly, these  
5 aren't our numbers because this is a \$19 billion  
6 number, right?

7 THE COURT: Right. Judge Singh?

8 JUDGE SINGH: Nothing further, thank you.

9 THE COURT: Okay, Mr. Brody, anything to  
10 follow up on the Court's questions?

11 MR. BRODY: Nothing to follow up, Your Honor.

12 THE COURT: Thank you. Mr. Pollock?

13 MR. POLLOCK: Your Honor, is it okay with  
14 you, I know I sit for part of this only because it's  
15 easier for me to read my documents and there's no  
16 lectern.

17 THE COURT: That's quite all right.

18 MR. POLLOCK: Is that fair enough?

19 THE COURT: Yep.

20 MR. POLLOCK: Okay.

21 THE COURT: You can move the podium too, if  
22 you --

23 MR. POLLOCK: Yeah, I didn't want to screw up  
24 your electronics and then have the Court Marshall throw  
25 me out and I get in trouble, so.

1 THE COURT: No, I think it's not operative  
2 but your option.

3 MR. POLLOCK: Okay, I can do it from here,  
4 Judge.

5 CROSS EXAMINATION BY MR. POLLOCK:

6 Q Mr. Haas, as you probably know, my name is  
7 Jeff Pollock, I met you beforehand. Mr. Conlon, you  
8 described as a central figure but isn't it true, he  
9 never entered an appearance in either L.T.L. or in  
10 Amyris?

11 A I don't think there's an inconsistency with those  
12 two statements.

13 Q Mr. Haas, I'm simply asking --

14 A So the -- well, you prefaced it. So if your  
15 question is whether he made an appearance?

16 Q Yes, sir.

17 A I am not aware if he has made an appearance, quite  
18 frankly. I know that he has commented on submissions  
19 in the proceeding. So I'm not sure, quite frankly, to  
20 answer your question.

21 Q I can tell you from information and belief,  
22 he never entered an appearance in either case; do you  
23 have any reason to believe that's not true?

24 A I stand on my answer, not to fight, not to  
25 quibble, I just do not know whether he actually made an

1 appearance. I can tell you, based upon his work, he  
2 commented on submissions to the Court in both of those  
3 matters.

4 So you know, often times, I would expect someone  
5 who is doing so to make an appearance. I just, sir, I  
6 just cannot say one way or another whether or not.

7 Q Fair enough. You also mentioned you had  
8 weekly standing calls with Mr. Conlon; do you recall  
9 that testimony?

10 A We had weekly standing group calls, many of which,  
11 most of which, Mr. Conlon participated in.

12 Q But you did not provide a single document to  
13 support that statement; did you?

14 A I don't think that's correct. We do have  
15 submitted, I believe, you'll have to ask my Counsel,  
16 but the time records by Mr. Conlon himself.

17 Q Actually, I want to ask you about that. You  
18 have how many lawyers representing you, approximately?

19 A Are you talking about --

20 MR. BRODY: Objection on (indiscernible)

21 MR. POLLOCK: On J and J and --

22 THE COURT: Hold on, Mr. Pollock, there's an  
23 objection.

24 MR. POLLOCK: All right.

25 MR. BRODY: I just objected, it's unclear



1 whether he's asking about the entire Talc Litigation or  
2 with respect to this disqualification issue.

3 THE COURT: With regard to --

4 MR. POLLOCK: I'll reframe the question.

5 THE COURT: Okay.

6 BY MR. POLLOCK:

7 Q Over the last four years, you have retained  
8 as J and J multiple lawyers to represent J and J in the  
9 L.T.L. and Amyris matter; correct?

10 A Yes, sir.

11 Q And your legal spend is well over \$500  
12 million in legal defense costs alone; correct?

13 A Yes, sir.

14 Q And in fact, it's over a billion dollars;  
15 isn't it?

16 A Yes, sir and that's one of the reasons why the  
17 entity that was responsible, Johnson and Johnson  
18 Consumer, Inc., was in the red.

19 Q So you have an army of paralegals, associates  
20 and legal counsel at your fingertips; correct?

21 A I don't know if I would characterize it that way  
22 but we have a lot of legal representation on the talk  
23 claims writ large.

24 Q And in your initial certification, you talk  
25 about a review of -- it's your first exhibit. You talk

1 about, it's Exhibit 1. You talk about, you became  
2 familiar with Mr. Conlon's work by review of the time  
3 sheets and documents and things; do you recall giving  
4 that certification?

5 A My statement was actually broader than that. My  
6 statement was, I am familiar with Mr. Conlon's work  
7 from his participation in weekly calls, from his direct  
8 interactions with me both through e-mails and  
9 communications. And I also reviewed the records that  
10 showed he had billed almost 1,600 hours to our firm.

11 Q When you sign a certification under oath  
12 attempting to disqualify counsel, do you understand  
13 that that certification has to be truthful, accurate  
14 and complete?

15 A When I sign any certification, sir, I answer that  
16 truthfully and accurately, to the best of my ability.

17 Q And it's complete, right? You would not  
18 leave out information by way of omission; right?

19 A I think that's kind of a vague statement.  
20 Whenever I certify a statement, I attempt to certify  
21 the statements therein as accurately as possible.

22 Q Excellent. Paragraph 3, page 1, "I became  
23 familiar with work performed for J and J by Attorney  
24 James Conlon of the Law Firm of Faegre Drinker, between  
25 July '20 and early 2022." Do you see that sentence?

1 A First of all, what --

2 Q Page -- Exhibit 1, it's Plenary Hearing 001  
3 at the bottom. Paragraph 3. I'm just asking about  
4 that one sentence, "I became familiar with work  
5 performed for J and J by Attorney James Conlon, of the  
6 Law Firm of Faegre Drinker, between July 2020 and early  
7 2022." Do you see that?

8 A Yes, that's exactly what I said, sir. I said,  
9 there's two different sets of --

10 Q What --

11 A One said I became familiar and for the reasons I  
12 state --

13 MR. POLLOCK: With all due respect, sir.  
14 Your Honor, this is your court. I would really like to  
15 conduct my questioning as opposed to getting a  
16 narrative each time.

17 THE COURT: Sure. So Mr. Haas, if you could  
18 direct your answer to the specifics as to the questions  
19 asked.

20 THE WITNESS: I believe his first question  
21 was, did I become familiar by reading the time entry  
22 (indiscernible) there's two different sentences.

23 MR. POLLOCK: Actually, I'm asking you simply  
24 --

25 THE COURT: Well, he's asking about the

1 sentence now.

2 THE WITNESS: Okay.

3 BY MR. POLLOCK:

4 Q I'm asking, you wrote this sentence, right?

5 You reviewed it and you signed it; right?

6 A I did and so if the question is, is the first

7 sentence accurate, the first sentence is accurate.

8 Q Excellent and you were comfortable signing

9 that certification, submitting it to the Court;

10 correct?

11 A That is correct.

12 Q Now if you look at the next Paragraph 5, you

13 say, "Billing submitted by Mr. Conlon reflects that

14 during this period, Mr. Conlon billed almost 1,600

15 hours on the Talc matter, including 1,154 hours in 2021

16 alone. The records reflect that Mr. Conlon billed J

17 and J \$2.24 million for this work." Do you see that?

18 A Yes, sir.

19 Q Have I read it accurately?

20 A To the best of my recollection --

21 Q But you have not produced a single one of

22 those documents here today; isn't that correct?

23 A Are you asking whether or not we produced the

24 billing records?

25 Q Yes, the billing records were not submitted

1 to this Court.

2 A The billing records, to the best of my  
3 understanding, are available for the Court's in-camera  
4 review if the Court so chooses to review them.

5 Q And they were not provided to the Court in-  
6 camera; were they, sir?

7 A You'll have to ask my Counsel that.

8 Q Excellent. Paragraph 6, "Those same billing  
9 records show that during this time period, Mr. Conlon  
10 attended dozens of meetings and phone calls with  
11 members of the J and J Law Department, including  
12 myself. J and J's former Head of Litigation, Joseph  
13 Braunreuther, Former Products Liability Lead, John Kim  
14 and current Product Liability Head, Andrew White." Do  
15 you see the sentence to which I refer?

16 A Yes.

17 Q So in each case, you refer to billing  
18 records; right? You refer to documents you reviewed.  
19 "I became familiar with," Paragraph 3, "Billing records  
20 submitted," Paragraph 5, "Those same billing records,"  
21 Paragraph 6.

22 Each case, you're talking about your knowledge  
23 from a review of the documents, "I became familiar  
24 with," as opposed to your testimony today where you  
25 say; I had weekly calls, direct e-mails, matrices,

1 billing statements, in-person meetings.

2 Why the significant change in tone from your first  
3 certification which talks about, I learned about Mr.  
4 Conlon through the reading of his bills as opposed to  
5 the testimony today which is, I know it because I  
6 talked to him personally about this all the time?

7 A There is no change in tone, sir.

8 Q Okay.

9 A The testimony today, as here, the testimony is  
10 about what I did. So I am attesting to what the  
11 documents show here and today, I am attesting to what  
12 my experiences were working with Mr. Conlon. There is  
13 no inconsistency with the two. They are consistent and  
14 they corroborate each other. So there is no shift in  
15 substance or tone or matter. They are absolutely, 100  
16 percent aligned.

17 Q Let's look at Paragraph 7. Conlon's time  
18 entries and the billing entries show that he  
19 communicated regularly. So it's not just the effort  
20 you made, it's what he did. You're talking about what  
21 Mr. Conlon did in Paragraph 7. And you're saying this  
22 based upon time entries; isn't that true, sir?

23 A The time entries corroborate what he did.

24 Q Correct and you don't say -- at that point in  
25 time, in your certification, you never said; I

1 personally sat down with Jim Conlon, I've personally  
2 worked with this guy. What you say is, time entries  
3 indicate these things; correct?

4 A In this particular paragraph, the series of  
5 paragraphs, sir, I am referring to the time records,  
6 which corroborates my positions with respect to what  
7 Mr. Conlon did and I don't think anybody can test that.

8 Q So your later certification is far different.  
9 There, you got -- let me just find it for a second  
10 here. It's Exhibit 13, sir. Tell me when you're  
11 ready.

12 A Is there a particular paragraph?

13 Q Yes, sir, Paragraph 3. "I worked directly  
14 with Attorney Conlon of Faegre Drinker when Mr. Conlon  
15 represented J and J in this matter that is being  
16 litigated before this Court and elsewhere. I worked  
17 with Mr. Conlon from the time I joined J and J in  
18 November 2020, through February 2022 when Mr. Conlon  
19 left Faegre," correct? Have I read that correctly?

20 A Have you read it correctly, yes.

21 Q Yes, sir. I'm asking you a question.

22 A I thought you were asking me whether you read it  
23 correctly.

24 Q Yes.

25 A I said yes.

1           Q     Excellent, I'm sorry, I didn't hear you. The  
2     \$19 billion number that you mention, your testimony was  
3     that Mr. Conlon and Mr. Birchfield conspired, met  
4     together, worked together, pick your phrase, was  
5     something that they presented was inconsistent with  
6     what J and J wants; right? The \$19 billion is not what  
7     J and J would like to see?

8     A     So we're off the declaration, we're onto the  
9     letter?

10          Q     We're off the declaration.

11     A     Okay.

12          Q     So you testified towards the end of Mr.  
13     Brody's direct. He asked you about the \$19 billion  
14     number and I believe that the sum of your testimony was  
15     that you believe Mr. Conlon and Mr. Birchfield  
16     conspired to drive this matter to the \$19 billion  
17     number; is that correct?

18     A     I'm just not understanding your question, I --

19          Q     Sure. Mr. Conlon, you testified for Mr.  
20     Brody, when Mr. Brody was asking you questions on  
21     direct; do you recall that?

22     A     I recall answering questions about the 19 billion.  
23     Yes, sir.

24          Q     Right and isn't it your belief, your  
25     testimony, that the \$19 billion number was something



1 that Mr. Birchfield and Mr. Conlon contrived, that they  
2 came up with that number?

3 A Mr. Birchfield and Mr. Conlon together presented  
4 the proposal for the \$19 billion alternative resolution  
5 that was at odds with the proposal that we had offered  
6 and indeed, was an attempt to -- and Mr. Birchfield has  
7 made no secret of this, thwart our offer and derail our  
8 attempt to resolve the case for \$8.9 billion, pursuant  
9 to our prior proposal.

10 Q So put simply, J and J proposes 8.9 billion.  
11 You believe Mr. Conlon and Mr. Birchfield are proposing  
12 roughly 19 billion?

13 A That's what Mr. Birchfield has said in different  
14 forms, including the mass tort made perfect, or mass  
15 tort gone wild, whatever it's referred to, and the  
16 correspondence that has been set forth into the record.

17 Q Okay, I would really like to get a yes or no  
18 to this one because it's a pretty simple question. Am  
19 I correct, J and J wants the 8.9 billion. You believe,  
20 Mr. Conlon and Mr. Birchfield was the 19 billion?

21 A Yes, sir.

22 MR. BRODY: Objection, Your Honor, it's been  
23 asked and answered.

24 THE WITNESS: Yeah, I just --

25 THE COURT: Well, to the extent I think Mr.

1 Pollock wants a more direct answer, I'll overrule the  
2 objection.

3 THE WITNESS: Yeah, the answer to that  
4 question is yes, sir.

5 BY MR. POLLOCK:

6 Q Excellent. When you talk about the matrix  
7 and the matrix that we're talking here is the one, it's  
8 Exhibit 7, it's the last page. It's Plenary Hearing  
9 67, sir. Is it your testimony that Mr. Conlon got that  
10 matrix from J and J?

11 A Mr. Conlon -- again, this goes to exactly the  
12 issue we just talked to the judges. The numbers in  
13 this matrix are obviously different than the matrices  
14 that Mr. Conlon debated, consulted on, conferred with  
15 and discussed with us.

16 My point was, in that testimony sir, is that, the  
17 very nature of having those conversations with Mr.  
18 Birchfield about the factors that go into these  
19 matrices and whether and to what extent certain numbers  
20 should be offered and certain others should not be, was  
21 imbued by the privileged communications that we had  
22 with Mr. Conlon.

23 Every time Mr. Conlon and Mr. Birchfield sit down  
24 and talk about anything to do with this proposal, those  
25 conversations necessarily implicate the attorney-client

1 privilege work product protected and confidential  
2 communications that he had with us on the very same  
3 topic. So that's my position.

4 Q Understood. If you could answer my question,  
5 that would be great.

6 A But I did --

7 Q If you would, sir, I'm going to ask the  
8 questions. I really need you to answer my questions,  
9 otherwise, we'll be here a long day. This is Exhibit  
10 7, Plenary Hearing 67. There is a chart, it is a  
11 matrix; do you see it?

12 A Are you talking about the exhibit --

13 Q Yes.

14 A -- or the Legacy chart?

15 Q Yes. That chart was not prepared by J and J;  
16 correct? That chart with these numbers was not  
17 prepared by J and J?

18 A That is true, sir.

19 Q Excellent. If we could go back to the  
20 beginning of Exhibit 7. At no point -- in fact, if you  
21 look at the entirety of the document. At no point in  
22 this document anywhere does it indicate that a copy of  
23 this document went to Andy Birchfield; does it?

24 A Does the letter state that?

25 Q Yes.

1 A No.

2 Q Wonderful. If you look at Paragraph 1, page  
3 7, 62, Plenary Hearing Exhibit 2. I'll give you both  
4 cites, it's the exhibit and the cite number. It's the  
5 second to last sentence.

6 It says, "For Legacy to enter into this  
7 transaction, the acquired talc liable entities of J and  
8 J will be required to hold assets with the present  
9 value of \$19 billion or such greater amount, as  
10 determined by J and J's independent auditors to remove  
11 from J and J's financial statements the non-cash charge  
12 for talc related liabilities." Do you see the sentence  
13 to which I refer?

14 A Yes, sir.

15 Q Now you spoke earlier with Mr. Brody about  
16 going to an auditor. Price Lauderhaus (phonetic) is  
17 the Auditor; correct?

18 A Yes, sir.

19 Q Who do you speak with at Price Lauderhaus?

20 A Steven Johnson.

21 Q And when you spoke to Steven Johnson,  
22 approximately what month was it?

23 A It was approximately -- it was sometime between  
24 the September 11th meeting we had with Mr. Birchfield  
25 and Doug Dachille, with our Treasurer and the response

1 to -- that we received from Doug Dachille on September  
2 28th. So it would have been in that time frame, sir.

3 Q And Mr. Haas, you've lived through this every  
4 day. I am parachuting in for one motion, so let me  
5 make sure I got this right. When you say -- you  
6 mentioned a couple of dates. These are all in 2023,  
7 the dates you just gave?

8 A Yes, they are.

9 Q Okay, I apologize for that. What exactly did  
10 the auditor say in response? Did they give you a  
11 written document or there was only an oral response?

12 A There was no written document, there was an oral  
13 response.

14 Q Did they give you an e-mail?

15 A There was no written document, there was an oral  
16 response.

17 Q Okay and I didn't mean to pick with you. I  
18 didn't know if they had written a memo or if you said  
19 it was just a discussion and that's all you had?

20 A Yes, sir.

21 Q Who was on the phone call with you when you  
22 had that discussion?

23 MR. BRODY: Your Honor, I'm just going to  
24 object. I think we're getting outside the scope of  
25 what we're here for today.

1 THE COURT: Thank you. Mr. Pollock?

2 MR. POLLOCK: They opened the door to the  
3 auditor's review on direct examination, which they  
4 didn't need to do. I've been objecting on scope from  
5 the very outset. So I would like a little bit of  
6 leeway but I'll move on quickly after I get this  
7 answer.

8 THE COURT: I'll overrule the objection. You  
9 know, the door is open and he may pursue it. I mean, I  
10 don't know -- I'll follow your questions, Mr. Pollock.

11 MR. POLLOCK: Okay and I intend to move as  
12 quickly as I can. As you know, on cross, I'm picking  
13 pieces and moving forward. So it may not be the  
14 smoothest work ever. I'll do what I can.

15 THE COURT: Right, Judge Singh, that's your  
16 style?

17 MR. POLLOCK: Thank you, sir.

18 BY MR. POLLOCK:

19 Q What did you discuss?

20 A Well, we discussed the proposal set forth by  
21 Legacy.

22 Q And what was their analysis? You said it  
23 didn't work, that it was a bad idea, that they said  
24 they would never go for it. I can't remember your  
25 exact words. Why did Price Lauderhaus think that it

1 was a bad idea?

2 A My recollection, there were a number of challenges  
3 with it. First and foremost, it goes to the very  
4 nature of the talc (indiscernible) had a future  
5 component.

6 There was no way with any certainty, especially  
7 given the adjudications that had happened up to that  
8 point, to be able to, outside a bankruptcy setting,  
9 ensure you got finality with respect to the future  
10 claims. Because there's, unlike bankruptcy where you  
11 have the channel injunctions, I can channel by Court  
12 order future claims to the trust. You don't have that  
13 in the M.D.L., so that was issue number one.

14 Issue number two, we were in a litigation where  
15 Mr. Birchfield was leading an opposition to the  
16 bankruptcy proposal that we had set forth and my  
17 recollection that another concern of the auditors was  
18 that there would be no way to reasonably estimate the  
19 value in which you could actually avoid a fraudulent  
20 (indiscernible) motion, in that context, given the  
21 nature, the particular nature of the allegations that  
22 were being made contemporaneously.

23 And so a reasoned auditor wouldn't be in a  
24 position to certify the fairness of a -- an amount for  
25 the purposes of divesting the talc liability into a

1 particular entity at that point in time. So sir, to  
2 the best of my recollection, those were the issues that  
3 were addressed.

4 I think there were some other issues with respect  
5 to credibility of the entity that we addressed in  
6 certain terms. My recollection is that, there was some  
7 historical knowledge of Legacy's attempt or Mr.  
8 Conlon's attempt to do this before that were looked at  
9 with the scans by the auditor.

10 Q Do you know why?

11 A I'm sorry, what?

12 Q Do you know why?

13 A Do I know why? I'm giving you my best  
14 recollection, sir.

15 Q I understand that, fair enough. You  
16 mentioned that, at one point, that if J and J had --  
17 and I forget the exact line of questioning. That J and  
18 J, at least a portion of it could be in the red. Do  
19 you recall using that word earlier today?

20 A Yes. What I said specifically was, the entity,  
21 Johnson and Johnson Consumer, Inc., was the entity  
22 responsible for the talc liabilities in the United  
23 States prior to any of these divisional mergers and  
24 prior to going into the bankruptcy. And in 2020, the  
25 entire enterprise was in a lost position, as a



1 consequence of the Talc Litigation, notwithstanding  
2 that it had a whole line of other valid and viable  
3 business opportunities.

4 That is essentially, what eventually led to doing  
5 the divisional merger, which is called so demeaningly  
6 the Two-Step because the divisional merger takes the  
7 Talc liabilities, puts it into a different entity and  
8 this is what the other circuit, the Fourth Circuit  
9 cases said is appropriate and I'm glad to go forward.

10 What we did is, we funded it with more recourse  
11 than they had when it was -- the Talc liabilities would  
12 have had when they were at J.J.C.I. with a separate  
13 funding agreement. And that is why, in our view, it  
14 was an appropriate transaction and that, if we had  
15 stayed in the Fourth Circuit where we filed, it would  
16 have been allowed to go forward. Different standard,  
17 Third Circuit, now we're going to address it on appeal.

18 Q So you made this argument twice now that the  
19 Fourth Circuit got it right, the Third Circuit got it  
20 wrong. But the fact is, courses for courses, facts  
21 matter; correct? Here, let me try it this way. In the  
22 Third Circuit's opinion, 64 F.4th 84 at -- I'll find  
23 the page here in a second.

24 "The Third Circuit found specifically, J and J has  
25 an exceptionally strong balance sheet. At the time of

1 L.T.L.'s filing, J and J has well over \$400 billion in  
2 equity with a Triple-A rating, \$31 billion in just cash  
3 and marketable securities." Isn't it true that those  
4 facts are not in the cases that were filed in the  
5 Fourth Circuit? They don't have an exceptionally  
6 strong balance sheet like J and J.

7 MR. BRODY: Your Honor --

8 THE WITNESS: Wait, I can answer that.

9 MR. BRODY: Before you do, I'm going to  
10 object, Your Honor. We're getting, I think now, far  
11 afield of focusing on the issues that we are here for  
12 today.

13 MR. POLLOCK: Your Honor, I could not  
14 disagree more strongly. He has argued twice now on the  
15 record, woe is me, poor J and J, we can't afford it.  
16 If I were only in the Fourth Circuit, I would be able  
17 to get away with this and the Third Circuit squarely  
18 said, it was not in good faith.

19 THE WITNESS: No --

20 MR. POLLOCK: Let me finish. As General  
21 Counsel or Assistant General Counsel, whatever he is,  
22 the fact is, the Third Circuit has said, they have an  
23 exceptionally strong balance sheet. So to me, to play  
24 to the news, to play to Your Honors and argue that  
25 we're going to go bankrupt if we cut the deal that

1 their own experts, which I'll get to in a minute,  
2 support.

3 I'm entitled to make the argument because he  
4 has made the counter-argument, repeatedly, over my  
5 objection regarding scope, we shouldn't be going here.

6 THE COURT: Well, the Fourth Circuit was  
7 brought up, the Third Circuit and difference of opinion  
8 and you know, whether the Supreme Court is going to  
9 resolve that split. Yeah, clearly, we heard it. I  
10 haven't necessarily heard Mr. Haas say that J and J  
11 can't afford it, et cetera. That was the tactic the  
12 company decided to take.

13 He addressed it, it was raised on direct.  
14 I'm going to permit Mr. Pollock to address those  
15 concerns but let's keep it focused.

16 MR. POLLOCK: I got it.

17 THE COURT: With regard to why we're here. I  
18 mean, Judge Singh and I are very familiar with what  
19 happened in the Fourth Circuit, what happened in the  
20 Third Circuit, Judge Ambrose's decision (indiscernible)  
21 decision. The author of the Third Circuit. So if we  
22 could get back to how that plays in and it addresses  
23 why we're here, Mr. Pollock, I think we would be all  
24 better suited. But I'll give you that opportunity to  
25 address it.

1 THE WITNESS: Yeah and Your Honor, I can  
2 squarely address this issue --

3 THE COURT: Okay.

4 THE WITNESS: -- this question quite clearly  
5 and shortly and succinctly.

6 THE COURT: Do you need the question  
7 rephrased?

8 THE WITNESS: No, I got it. You're  
9 misreading the decision and you're wrong on the facts  
10 because first of all, the J and J wherewithal in the  
11 context of the Third Circuit decision that came down in  
12 January of 2023 concerned whether and to what extent  
13 they would be able to fund, pursuant to the Funding  
14 Agreement, which I had mentioned.

15 That was J and J providing supplementary  
16 funding, it has nothing to do with whether the entity,  
17 J.J.C.I., could have gone into bankruptcy alone because  
18 it was red. And in fact, that's why we say that our  
19 transaction was extraordinarily in good faith.

20 What happened in that decision, the Third  
21 Circuit said, because in its view, there was an  
22 imminent financial distress because of that particular  
23 backstop, then the bankruptcy proceeding of the new  
24 entity L.T.L. could not go forward.

25 In the Fourth Circuit, there is, in fact, a

1 backstop by viable, healthy parent companies too. In  
2 those cases, though, the Court didn't apply an imminent  
3 financial distress standard. The Court (indiscernible)  
4 and the Fourth Circuit looked to whether and to what  
5 extent the bankruptcy proceeding provided a reasonable  
6 way to resolve the mass tort liability that involved  
7 the future components. That, this was an appropriate  
8 use of the bankruptcy process.

9 In the Fourth Circuit, the first question is  
10 whether there is subjective bad faith and the second  
11 question is whether there's objective futility. And in  
12 both cases, the Fourth Circuit said, no, there is no  
13 subjective bad faith and no, there is no objective  
14 futility because of the Funding Agreement. So it  
15 actually worked in their favor. So that's the relevant  
16 facts.

17 In the Third Circuit, because it didn't apply  
18 the subjective bad faith standard, in fact, the Third  
19 Circuit noted in the decision that there was no  
20 subjective bad faith and the bankruptcy court has found  
21 that there's no subjective bad faith by J and J. So  
22 what the Court actually held was, by doing the right  
23 thing -- and the Court noted that in the footnote.

24 I believe it's Note 27, for those people who  
25 might want to remind me, that it was kind of ironic

1 that by doing the right thing and providing the  
2 funding, it couldn't meet this new standard of imminent  
3 financial distress. But my view on what the difference  
4 is in the Third Circuit for the Fourth Circuit were  
5 entirely correct and accurate and I believe you're  
6 misconstruing the Third Circuit's decision.

7 MR. POLLOCK: Your Honor, he mentioned that  
8 they would be in the red. I believe the Third Circuit,  
9 at page 106 --

10 THE COURT: J.J.C.I.

11 THE WITNESS: J.J.C.I.

12 THE COURT: They would be in the red.

13 MR. POLLOCK: It -- well the Third Circuit  
14 talks about old consumer and new consumer. So they are  
15 looking at it differently than the way Mr. Haas is  
16 looking at it. My only point is really simple. The  
17 Third Circuit looked at it and said, you've got 31  
18 billion in cash and marketable securities. That is not  
19 being in the red. But if you will, I'll move on.

20 THE WITNESS: Sure, I can explain, Your  
21 Honor. You hit it, you hit it. It's the new entity  
22 that has the Funding Agreement that he's referring to  
23 and there's a distinction, obviously, between the --

24 THE COURT: Just as a footnote here, those  
25 company differentials played a large measure in motions

1 before our courts.

2 THE WITNESS: Yeah.

3 THE COURT: So that's not foreign to us, Mr.  
4 Haas.

5 THE WITNESS: Thank you, thank you, Your  
6 Honor.

7 MR. POLLOCK: You're familiar with two  
8 people, Mr. Mullin and Mr. Bell?

9 THE COURT: (indiscernible) the microphone,  
10 the witness' microphone is off?

11 UNIDENTIFIED MALE: I can't hear. I can't  
12 hear what he's saying from over here.

13 THE WITNESS: Should I -- I can try moving it  
14 over here, if that helps. Does that help you guys? It  
15 may be off.

16 THE COURT: It looks fine from our technical  
17 standpoint.

18 COURT CLERK: Yeah, I'm fine. They're not  
19 microphones you can hear through the building. They're  
20 just microphones from --

21 THE COURT: Okay, all right, just project  
22 your voice, Mr. Haas.

23 THE WITNESS: I'll try to speak into this if  
24 it helps. Yes, sir.

25 MR. POLLOCK: Thank you.

1 COURT CLERK: Yep.

2 BY MR. POLLOCK:

3 Q You mentioned earlier in your testimony that  
4 you thought Mr. Conlon and Mr. Birchfield were  
5 conspiring or working together against you to get the  
6 19 billion number; correct?

7 A I'm not sure I used those words but that's the  
8 essence of what my opinion is.

9 Q Fair enough. Are you familiar with Charles  
10 H. Mullin and Gregory K. Bell?

11 A Yes.

12 Q And they're both experts; right?

13 A Yes, they are.

14 Q And they are both experts retained by J and  
15 J; correct?

16 A Yes, they are.

17 Q And they are both experts who provided expert  
18 reports to Michael Kaplan, Judge of the Bankruptcy  
19 Court; right?

20 A Yes, they are.

21 Q And as Mr. Bell says, that the range to  
22 resolve -- this is page 4, would resolve to 11 to \$21  
23 billion.

24 A Sir, what are you referring to?

25 Q I'm referring to the Bell report at page 4,



1 it's the Bell report of June 7th, 2023. You read that

2 --

3 A What tab is it?

4 MR. POLLOCK: It's not in the documents.

5 MR. BRODY: Do you have a copy of it?

6 BY MR. POLLOCK:

7 Q I do not. You've seen this -- I'm not  
8 required to give you a copy of the document, sir. Are  
9 you telling me here today, you did not review this  
10 report at some point in your life?

11 MR. POLLOCK: That's a different question,  
12 Your Honor.

13 THE COURT: Well --

14 THE WITNESS: Sir, I'm not telling you that  
15 one way or the other. I don't know what report you're  
16 referring to and I do not know the context of the  
17 statement and I would appreciate if I could at least  
18 get a copy.

19 BY MR. POLLOCK:

20 Q So you're telling me that as the person in  
21 charge of Products Liability for J and J, when there  
22 are a submission by two experts, going to Michael  
23 Kaplan, Judge Kaplan, that you did not know, you did  
24 not review those reports before they were submitted to  
25 the Court?

1 A Yeah, I didn't testify to that, sir. I said --

2 Q I didn't ask you -- I didn't ask you -- you  
3 keep on reframing my questions. I'm asking you a  
4 simple question. Are you telling me you did not review  
5 those reports before they were filed with Judge Kaplan?

6 MR. BRODY: Your Honor, that's a separate  
7 question than the question he asked previously which  
8 was --

9 THE COURT: Well, it was. What's the  
10 question you want to ask Mr. Haas, Mr. Pollock?

11 MR. POLLOCK: All right, I'll ask a brand new  
12 and clean one.

13 BY MR. POLLOCK:

14 Q You're familiar with these two gentlemen, Mr.  
15 Mullin and Mr. Bell; correct?

16 A Yes, they are both experts of Johnson and Johnson  
17 who provided, to your point, expert reports in  
18 connection with different motions, at different times  
19 during the proceeding. So I'm not sure which expert  
20 reports you're referring to. But they both have  
21 submitted expert reports in connection with the  
22 proceedings and cases before Judge Kaplan.

23 Q And you care deeply about this case; don't  
24 you?

25 A The --

1 Q L.T.L. matter?

2 A I fundamentally feel very strongly about the talc  
3 claims because having had -- every dime that does not  
4 go to doing what we do in the regular course of  
5 business, Mr. Pollock, which is saving people's lives,  
6 is a dime that could have been used to save another  
7 person's life.

8 And I think anyone who has faced that and faced  
9 the diseases that we attempt to cure on a daily basis  
10 would feel as strongly as I do about this case because  
11 in my view, the Talc Litigation is entirely  
12 unwarranted, unmerited and is depriving the company  
13 from the funds that it can be using to actually save  
14 lives.

15 So I care deeply about this case because our  
16 number one principle and our credo is to do what's  
17 right for patients.

18 Q Excellent. So you care deeply about the case  
19 and the fact is, every day you delay, J and J earns  
20 interest on the money it has not paid; correct?

21 MR. BRODY: Your Honor, are we going to --  
22 I'm going to object, Your Honor. Is this going to turn  
23 into an examination about the potential -- I mean, it  
24 seems like this is now a hearing about the fairness of  
25 one particular settlement offer or another as opposed

1 to the issues that the Court is facing on  
2 disqualification.

3 MR. POLLOCK: Judge, they address directly  
4 Mr. Brody. Mr. Birchfield and they made the point,  
5 pointedly, during direct examination, that Andy's sole  
6 motive was; I could get a few more shekels, I could get  
7 a few more dimes, if we went this way and I make more  
8 money. That came out of this witness' mouth.

9 That's exactly what he did. He was going it to  
10 attack my client's credibility and Mr. Brody instigated  
11 it by saying, going, what happened in that testimony?  
12 I'm entitled to respond, Your Honor.

13 THE COURT: Overrule the objection. He can  
14 go down that road, Mr. Pollock. Remember, we're not a  
15 jury.

16 MR. POLLOCK: I understand that.

17 THE COURT: And you know, we can discern. So  
18 I think you've made your point with regard to the  
19 difference of whatever fees may be available to your  
20 client.

21 MR. POLLOCK: Got it.

22 THE COURT: And bankruptcy versus the M.D.L.  
23 or M.C.L.

24 MR. POLLOCK: Fair enough.

25 THE WITNESS: Wait but --

1 BY MR. POLLOCK:

2 Q Let me close with one last point, then.

3 Isn't it true that your own experts, Mr. Bell and Mr.  
4 Mullin, opined that the range of resolution that was  
5 reasonable would be somewhere between 11 and \$21  
6 billion?

7 A No, that's not right.

8 Q Okay and so you're saying these reports are  
9 not correct, they're not accurate?

10 A No, I'm saying you don't understand what the  
11 reports say and you're erroneously characterizing the  
12 reports.

13 Q I'll let the reports speak for themselves.  
14 You've heard the number 11 to \$21 billion; haven't you,  
15 in these reports?

16 A You're talking about --

17 THE COURT: Could you mark for the record, at  
18 least for identification?

19 MR. POLLOCK: Absolutely. I'll mark for  
20 identification the June 7, 2023 Bell Report, which is  
21 on page 4 and I'll mark it for identification. What  
22 would you like it marked as, Judge, Plaintiff's?

23 THE COURT: Why don't you go P-1.

24 MR. POLLOCK: P-1 and it says, the Mullin  
25 Report also estimates the total present value of the --

1 MR. BRODY: Your Honor -- I'm sorry  
2 (indiscernible)

3 THE COURT: Hold on --

4 MR. BRODY: Mr. Pollock, I'm sorry. If he's  
5 going to be reading from the report for his  
6 questioning, I think I should get a copy and I think  
7 Mr. Haas should have a copy, as well.

8 THE COURT: Well --

9 MR. POLLOCK: Your Honor, nothing in the  
10 court rules especially requires me to give them a copy  
11 of my documents.

12 THE COURT: For cross examination, no but I'm  
13 just looking at, what are we marking for identification  
14 purposes?

15 MR. POLLOCK: Fine.

16 THE COURT: So you get the P-1 is the 6-7-23  
17 Bell Report.

18 MR. POLLOCK: And P-2 would be the June 7  
19 Charles H. Mullin Report and that is at pages 3 and 44  
20 and I'll give Mr. Brody my own copy.

21 THE COURT: (indiscernible) what is the  
22 Mullin Report?

23 MR. POLLOCK: It's Charles Mullin, M-U-L-L-I-  
24 N, not E-N, June 7, 2023, file with Judge Kaplan and  
25 I'm referring specifically to page 3 and to page 44.

1 THE COURT: So you're questioning Mr. Haas on  
2 those reports. He hasn't seen those or at least, his  
3 familiarity is as not clear today as perhaps when he  
4 saw it. So what's -- you're going to ask him questions  
5 with regard to those two exhibits?

6 BY MR. POLLOCK:

7 Q Yes and my only question is this -- actually,  
8 he doesn't say he hasn't seen them. So I'm not  
9 quivering with you but I don't -- Mr. Haas, am I  
10 correct that these reports you reviewed before they  
11 were filed with the Court?

12 A If you're referring to the -- I would -- for the  
13 purposes of moving along, Your Honor, I review most of  
14 the expert reports that get submitted so I would  
15 presume I did. I don't know which specific ones he is  
16 referring to because there are quite a few --

17 UNIDENTIFIED MALE: I can't hear you.

18 THE WITNESS: So there were quite a few  
19 submitted by those two experts in this context.

20 THE COURT: So you know, all deference to  
21 folks in the crowd. As long as the Court can hear, if  
22 you can project your voice.

23 THE WITNESS: I'm sorry.

24 THE COURT: That's what's most important.  
25 We're not playing to any audience (indiscernible)

1       you're entitled -- you can reconfigure your seat, if  
2       you want to hear but you know, that's -- the  
3       microphones are and our acoustics are what they are.  
4       So, please continue, Mr. Haas.

5               THE WITNESS: And Your Honor, if I may just  
6       respond to the other question which I think the record  
7       might be a little confused about whether I responded.  
8       He asked whether J and J's earning interest on monies  
9       that are not otherwise paid out. We are not earning  
10      interest on monies that are not otherwise paid out.

11              We are investing our monies into research and  
12      development to create new drugs. So there's no money  
13      sitting aside that we're earning interest on for the  
14      purposes of avoiding a settlement payment. So that  
15      statement is entirely incorrect. What we are doing is  
16      incurring hundreds of millions of dollars a year  
17      litigating the Talc case, that isn't judgements.

18              I mean, we have one -- or there has been two  
19      cases tried this year, they are both mistries. So on  
20      the grounds that they haven't got a unanimous verdict.  
21      So they have not won a single case this year but we are  
22      spending hundreds of millions of dollars on pure  
23      expenses of litigating these cases, which aren't  
24      otherwise going to the research and development for new  
25      drugs for patients.



1 BY MR. POLLOCK:

2 Q And if you continue to litigate, it could be  
3 the different between \$9 billion and \$19 billion;  
4 right? Your hope is that you could save \$10 billion  
5 and litigate this matter successfully and resolve it at  
6 9 billion?

7 A No, sir. I testified on direct that the evidence  
8 on the record, in the bankruptcy is that, if we were to  
9 litigate these cases at the rate we were litigating, at  
10 the time we filed the first bankruptcy, it would take  
11 3,800 years to get through the cases, thereby depriving  
12 most claimants of any recovery whatsoever.

13 And the cost of the pure expense of litigating  
14 those cases, not paying judgements but the expense  
15 alone would be \$190 billion. So that would be expenses  
16 that go to lawyers, that don't go to patients.

17 Q So settling at \$20 billion would be a good  
18 deal?

19 A That is not the logical conclusion one would draw  
20 from that statement.

21 Q Fair enough, let me move on. Weil Gotshal,  
22 Jones Day. Am I correct that Weil Gotshal and Jones  
23 Day were your primary lawyers in the Amyris and L.T.L.  
24 matter, Jones Day with regard to the L.T.L. approach of  
25 the Texas Two-Step?

1       A     Primary -- so Jones Day was the bankruptcy counsel  
2       of record for the L.T.L. matters, Weil Gotshal was the  
3       bankruptcy counsel of record for the Amyris and Cyprus  
4       matters, I believe. And in terms of primary counsel,  
5       again, it goes to your question earlier. We had  
6       Traurig counsel, we had Faegre Drinker counsel, we had  
7       Skadden Counsel, we had King and Spalding counsel.

8           We had other counsel, all that participated in  
9       these calls and each were there because they  
10      contributed significant value to the deliberations. So  
11      when you say primary, it's -- those two were the ones  
12      that were responsible for submissions into each court  
13      but each and every one of those people on that call  
14      provided significant input and advice with respect to  
15      those matters.

16           And on the bankruptcy issues, sir, and on the mass  
17      torts issue, Mr. Conlon purported to be the premier  
18      expert in the world and it's in writing, in the  
19      submissions that are in the record that, that was his  
20      position.

21           Q     If I were to look at it from a billable  
22      spend, am I correct that the numbers spent for J and J,  
23      for legal counsel at Weil Gotshal, on Amyris, would  
24      dwarf anything spent by Mr. Conlon?

25      A     On a per lawyer basis, I'm not sure that's true

1 but on an aggregate basis, I would say yes.

2 Q So the total spend, the total amount spent,  
3 hundreds of millions of dollars to Weil Gotshal,  
4 roughly 2 million bucks to Mr. Conlon?

5 A I will have to check the actual numbers to give  
6 you that -- I think your prior statement was probably  
7 (indiscernible)

8 Q Excellent and with regard to Jones Day.  
9 Jones Day was the one who proposed and who was driving  
10 the L.T.L., the Texas Two-Step; correct?

11 A No.

12 Q Who was driving it?

13 A Me.

14 Q Okay. Are you a bankruptcy expert?

15 A I do not purport to be a bankruptcy expert but I  
16 am the one who is responsible at J and J, first and  
17 foremost for the concept and secondly, for the decision  
18 whether to file and thirdly, how to go about  
19 structuring that filing, with the advice of Mr. Conlon  
20 sitting right behind you.

21 Q And didn't Mr. Conlon actually tell you that,  
22 at any point in time, he did not think the L.T.L. Texas  
23 Two-Step was a good idea?

24 MR. BRODY: I'm going to object --

25 THE WITNESS: Actually, quite to the -- oh.

1 MR. BRODY: I'm going to --

2 THE COURT: Hold on, Mr. Haas.

3 MR. BRODY: Sorry. I'm going to object, Your  
4 Honor because if we're going to ask about the substance  
5 of communications --

6 MR. POLLOCK: Fair enough.

7 MR. BRODY: -- between Mr. Conlon and Mr.  
8 Haas while Mr. Conlon was representing J and J's  
9 outside counsel, that's privileged and I have a  
10 privilege objection to that question.

11 THE COURT: Sustained.

12 MR. POLLOCK: Okay, fair enough.

13 BY MR. POLLOCK:

14 Q You have provided no e-mails and no billing  
15 records, no photos, anything, showing Mr. Conlon and  
16 Mr. Birchfield working together; have you, other than  
17 what you have in the record here today?

18 A Other than what's in the record, have we provided  
19 anything into the record? No.

20 Q No, let me put it this way. You have -- you  
21 said, in your initial certification, it's Exhibit 1 if  
22 you want to see it. You say, you've reviewed. When  
23 you say, you've reviewed, is it that you've personally  
24 reviewed or is it the royal, we've reviewed and you've  
25 had other people review the report up to you?

1 MR. BRODY: I'm sorry, what are you referring  
2 to?

3 MR. POLLOCK: Exhibit 1.

4 THE COURT: The declaration.

5 MR. BRODY: Which part, though?

6 BY MR. POLLOCK:

7 Q The declaration, "I became familiar,"  
8 "Billings submitted," reflects, "Time entries reflect,"  
9 Paragraph 5, "These billing records show." They are  
10 all written in the passive. So I'm asking you, sir,  
11 who actually reviewed the documents?

12 A I reviewed them.

13 Q So how did you actually get the billing  
14 records?

15 A I asked Mr. White who is sitting in the back of  
16 the courtroom, who is in charge of the billing records  
17 for the Product Liability Group, to provide them to me,  
18 and he did.

19 Q And did you also ask for all e-mails and  
20 memoranda that Mr. Conlon had written?

21 A In connection with this matter?

22 Q Yes, sir?

23 A I do not know whether I made that specific  
24 request. I do recall asking for records that he had  
25 provided and communications from them. I'm not exactly

1       sure how I framed it, sir, that's all. The gist of it  
2       was, I did ask for documents that Mr. Conlon had sent  
3       and drafted.

4           Q       Did you reach out to the law firms that you  
5       work with, Jones Day, Weil Gotshal, Faegre and ask  
6       them; hey do you have any documents regarding what Mr.  
7       Conlon worked on while he was at Faegre Drinker?

8       A       I don't believe I -- I certainly did not do that,  
9       I don't believe anyone did, no.

10          Q       Okay and so with regard -- and you've  
11       produced to the Court here all the documents you have  
12       regarding any communications between Mr. Conlon and Mr.  
13       Birchfield; correct?

14       A       I don't know that I could say that specifically  
15       because he might have been on submissions to the Court,  
16       where they are both on there. I don't think that was  
17       the purpose of the submissions. The purpose of the  
18       submissions were designed to provide an indication of  
19       what Mr. Conlon did to demonstrate that he worked on  
20       the same matters and the same issues that he's now  
21       taking positions with Mr. Birchfield that are adverse  
22       to J and J.

23          So the intent wasn't to do a comprehensive dump of  
24       every document that the two might have been on. So I  
25       would expect, sir, quite frankly, I would expect that

1       there are documents that involve transmission of court  
2       documents, for example but the answer is, no, that was  
3       not the objective of this (indiscernible)

4             Q       You used -- and I don't have your exact  
5       words, so I apologize. It's either conspire, work  
6       together or you know, joining forces against J and J,  
7       it's all the same concept. If you had any proof that  
8       Mr. Conlon had disclosed confidential and privileged  
9       information to Mr. Birchfield, am I correct, you would  
10      have produced it to the Court for the hearing today?

11      A       Sir, I think I addressed this on direct which is  
12      to say, the record demonstrates that as early as April  
13      20th, 2023, Mr. Conlon and the Beasley Allen Law Firm  
14      were having myriad discussions relating to a settlement  
15      proposal and including a structural optimization  
16      proposal.

17             First, for discussion with the mediators and  
18      thereafter, for presentation in connection with  
19      opposing our plans. So the record demonstrates that.  
20      The record demonstrates that the proposals have the  
21      same and implicate the same matters and the same issues  
22      that Mr. Conlon represented us and gave us advice on  
23      and had communications with inside counsel and outside  
24      counsel.

25             And as I testified, those conversations

1 necessarily are imbued with Mr. Conlon's confidential,  
2 privileged and work product information that he  
3 obtained from Johnson and Johnson, so I disagree with  
4 your proposition.

5 Q Excellent. So with regard to -- we'll go to  
6 necessarily imbued for a second. Let's assume, for the  
7 sake of argument, that Mr. Conlon understands RPC-1.9.  
8 Now, he understands he has an ongoing duty to keep and  
9 maintain confidences that belong to J and J. I just  
10 want you to assume that for one second.

11 What facts do you have, in your possession,  
12 custody or control, that he ever shared any of those  
13 confidences with Mr. Birchfield or Beasley Allen? I  
14 understand your theories, I understand your concerns.  
15 What facts do you have?

16 A I just told you them --

17 Q Excellent, so those are all the facts you've  
18 got?

19 A I just told you the facts that I have and the very  
20 nature of the communication, the very nature of the  
21 position, where the two are collaborating on the same  
22 issues, where you have a side-switching counsel who is  
23 now working with our adversary on the same matters and  
24 the same issues. And I fundamentally disagree with  
25 your proposition which is embedded in your question, as



1 is to what is the requisite showing under Rule 1.9, as  
2 well? But fundamentally, I've already answered your  
3 question.

4 Q Okay. So I am correct in understanding that  
5 the totality of the facts that you have in your  
6 possession, custody and control, that Mr. Conlon ever  
7 shared anything that was a secret J and J piece of  
8 information, is in the binder in front of you?

9 A Once again, no.

10 MR. BRODY: My objection is -- sorry, it  
11 mischaracterizes his testimony but he can answer.

12 THE WITNESS: That would be no, that  
13 mischaracterizes my testimony.

14 BY MR. POLLOCK:

15 Q All right, so what other documents do you  
16 have?

17 A I just told you that it's based upon my testimony  
18 and the documentation and the nature of the  
19 relationship and I just walked through with you, as I  
20 did on direct, what was the basis for my view of the  
21 nature of the relationships which necessarily had  
22 demonstrated an egregious breach of Mr. Conlon and Mr.  
23 Birchfield's ethical obligations.

24 You can't have someone who is sitting on that side  
25 of the table, walk to that side of the table and say,

1 oh I didn't tell him anything but I'm going to work  
2 with him against you on that side of the table. That's  
3 an egregious side-switching violation of the ethics.  
4 So if you're asking my opinion because --

5 MR. POLLOCK: I'm not asking your opinion.  
6 I'm asking for facts, sir.

7 THE WITNESS: Because -- you presented me  
8 with a hypothetical --

9 MR. POLLOCK: Sir, I'm asking you for facts.

10 THE WITNESS: Sir, you presented me with a  
11 hypothetical -- and if you want that, I will answer it.

12 MR. POLLOCK: I did not, I'm asking for  
13 facts. Those were two different -- that was two  
14 questions ago. Go ahead, I'm asking you for facts.

15 THE COURT: Calm down. All right, pose your  
16 question, Mr. Pollock.

17 MR. POLLOCK: Yes, sir.

18 BY MR. POLLOCK:

19 Q You say, necessarily imbued. You've used  
20 that phrase several times today, necessarily imbued.  
21 When I -- necessarily imbued. Is that another word  
22 for, the appearance of impropriety; it looks wrong, it  
23 doesn't sound right?

24 A No.

25 Q Excellent. What is the difference between

1 necessarily imbued, which I've never seen in the ethics  
2 rules, and the appearance of impropriety; what is the  
3 distinction?

4 A The distinction that I -- in answering questions  
5 that were posed to me, that you asked, as to why the --  
6 Mr. Conlon and Mr. Birchfield's conduct is improper.  
7 My point simply is, is when you're having conversations  
8 that concern the same matter and the same issues that  
9 Mr. Conlon had years of discussions with me about and  
10 with my team and with the J and J team and with outside  
11 counsel.

12 And to go and have conversations about the same  
13 issues with my adversary, undermines the entire  
14 adversarial process because no matter how he construes  
15 it, his communications must contain our privileged work  
16 product and attorney-client communications because he  
17 can't separate that out in his neurons. Any single  
18 view that he espouses, necessarily, yes, is imbued with  
19 the conversations we've had.

20 Q You have no evidence, sir, that he was ever,  
21 Mr. Conlon, ever worked for Beasley Allen; right?

22 A (indiscernible)

23 Q He was never an associate or partner at  
24 Beasley Allen?

25 A I have no evidence that Mr. Conlon was an

1 associate or partner at Beasley Allen.

2 Q Excellent. You have no evidence that he was  
3 ever retained by Beasley Allen?

4 A No, I have no evidence that he actually received a  
5 paycheck from Mr. Birchfield, if that's what you mean  
6 by retained.

7 Q Or he had a written agreement for Beasley  
8 Allen. I'm going to hire you, Mr. Conlon, you're a  
9 great lawyer, you worked for Sidley and Austin for 32  
10 years, I'm hiring you. You have no such document;  
11 correct?

12 A I have no such document. The position we've taken  
13 very consistently is that he is collaborating, he has  
14 joined forces with, he's worked with, all the  
15 adjectives you've used, in order to prepare and to  
16 present and advocate for a settlement resolution that  
17 is directly adverse to that of his former client.

18 Q Even though your own experts are saying, that  
19 number sounds pretty good to us?

20 A That is entirely false, unfounded, lacks  
21 foundation, it misconstrues the evidence in the record.

22 MR. POLLOCK: You should be on this side. I  
23 mean, because if you're going to object, sir. I'm  
24 asking you questions. I don't need -- Mr. Brody is  
25 quite capable of objecting.

1 MR. BRODY: Your Honor, I move to --

2 THE COURT: All right, I think, Mr. Haas, if  
3 he doesn't understand the question, he's explaining why  
4 he doesn't understand the question.

5 MR. POLLOCK: Fair enough.

6 MR. BRODY: Yeah and I would move to strike  
7 the commentary, Your Honor, because Mr. Haas was  
8 answering a question and --

9 THE COURT: Well, Judge Singh and I are able  
10 to separate that type of information.

11 MR. BRODY: Thank you.

12 BY MR. POLLOCK:

13 Q One of your assumptions, sir, is that he was  
14 a lawyer representing a client when he went to Legacy  
15 Solutions; isn't that core to your analysis?

16 A No, it's not.

17 Q Because RPC-1.9 says, a lawyer who has  
18 represented a client in the matter shall not thereafter  
19 represent. So isn't it true that he has to be a lawyer  
20 representing a party in the dispute?

21 A No, that's not true.

22 Q Excellent and --

23 A That's not true because your obligations, your  
24 ethical obligations as a lawyer, do not stop when an  
25 engagement ends. You own then for life, Mr. Conlon.

1 Q Well, let's just be really clear on this.  
2 When you say you own them for life, you're talking  
3 about RPC-1.6, confidentiality of information; correct?

4 A I'm talking about -- no, no, I try not to engage  
5 in an argument. So I will succinctly say no and then I  
6 will reserve --

7 THE COURT: Well, let's hear the question.  
8 Mr. Pollock?

9 BY MR. POLLOCK:

10 Q Okay, so RPC-1.6 talks about a lawyer's  
11 ongoing duty to maintain confidences. Are you familiar  
12 with that rule?

13 A I'm familiar with the rule, sir.

14 Q Excellent and in this case, when I asked you  
15 whether Mr. Conlon shared information with Mr.  
16 Birchfield, you only really went to 1.9, duties to  
17 former clients and that requires him to have been  
18 counsel. And then I asked you whether he was a lawyer  
19 representing a client in the matter and I proffered  
20 you, he's not. Isn't it true, he is a businessman  
21 representing the interest of Legacy Solutions?

22 A So you have a large amount of preface to the  
23 question and I fundamentally disagree with your  
24 interpretation of the ethical laws, sir.

25 Q Okay.

1 A If your question is whether or not our position is  
2 whether Mr. Conlon is acting as an attorney or not in  
3 his current role, the answer is, it doesn't matter. I  
4 don't have the foundation to say whether he purports to  
5 but if you're asking whether that is dispositive of my  
6 position, of our position, the answer is no.

7 Q Well, you accused him of being a side-  
8 switching lawyer. Those were your words. But in this  
9 case, he is a businessman at Legacy Solutions after he  
10 walked out the door at Faegre. So I want to know, how  
11 can he be a side-switching lawyer if he is not  
12 representing a client in the matter, other than  
13 himself?

14 A He is a lawyer that has continuing obligations,  
15 who has switched sides and is now working with an  
16 adversary on the same matter and the same issues for  
17 which he provided legal advice, confidential advice,  
18 obtained privileged and work product information. That  
19 is a side-switching lawyer, in my view.

20 Q And other than the documents you have in the  
21 record today, you have no -- and your testimony you  
22 have given with your opinions, you have no other  
23 evidence that Mr. Conlon ever shared a J and J  
24 confidence with Mr. Birchfield; correct?

25 MR. BRODY: Objection, Your Honor. We've

1       been through this, I think, three times now.

2                   THE WITNESS: Three times, four times.

3                   THE COURT: It's been posed. To the extent  
4       there's a different answer you were looking for, Mr.  
5       Pollock?

6                   MR. POLLOCK: I'm prepared to move on, Your  
7       Honor.

8                   THE COURT: Okay.

9       BY MR. POLLOCK:

10           Q       Alliances. You talk about alliances and  
11       joining forces. That's what you talked about with Mr.  
12       Birchfield and Mr. Conlon. Isn't it true that the  
13       second Mr. Birchfield or the Talc Claimant's Committee  
14       signs a deal that -- let me throw it this way.

15                   Isn't it true that the second that -- if J and J  
16       were to sell the liabilities to Legacy and Legacy were  
17       to buy them, isn't it true, at that moment, Mr.  
18       Birchfield, Beasley Allen, the entire Talc Claimant's  
19       Committee suddenly becomes adverse to Legacy?

20       A       First of all, I don't understand your hypothetical  
21       and from what I do understand, I disagree but I'm not  
22       really sure your hypothetical --

23           Q       Sure, let me clear it up. Legacy Solutions  
24       proposed to buy the claims from J and J; correct?

25       A       Legacy Solution has proposed a number of different



1 resolutions that it terms broadly -- it falls broadly  
2 within the bucket of what they call structural  
3 optimization and that could involve -- fundamentally,  
4 we've been over this a little bit but it involves  
5 putting the Talc Liability into another entity and  
6 providing some funding for it.

7 But then, what happens next, whether or not you  
8 take that entity and put it into a bankruptcy, whether  
9 you put ovarian claims only into bankruptcy and not the  
10 Mesothelioma claims, whether or not you even do  
11 anything with bankruptcy, whether or not you take it  
12 and you basically sell it so that it is a standalone  
13 entity, with still exposure from the future claimants,  
14 is an option.

15 So there are a number of different alternatives  
16 that can come to play, each of which, we had many  
17 discussions with Mr. Conlon about the risks, benefits,  
18 costs, pros, cons, advantages and disadvantages, while  
19 he was our counsel. And so, in coming up with a Legacy  
20 proposal, you know, when he came to us, he proposed a  
21 number of alternatives within the concepts of this  
22 structural optimization.

23 So I hope that answers your question. I'm not  
24 exactly sure where you're going.

25 Q I don't think it answers my question even

1 remotely but I'll ask it again. If we look at Exhibit  
2 7, could you pull that up, please?

3 A Yes, sir.

4 Q Tell me when you're ready?

5 A I'm looking at Number 7.

6 Q Wonderful, first paragraph, second sentence,  
7 "For Legacy to enter into this transaction, the  
8 acquired Talc liabilities of J and J would be required  
9 to hold assets, with a present value of \$19 billion or  
10 such greater amount as determined by J and J's auditors  
11 to remove from J and J's financial statements the non-  
12 cash charge for talc-related liabilities." Do you see  
13 that sentence?

14 A I do, sir.

15 Q In plain English, doesn't that mean, if  
16 Legacy buys those claims, the talc-related liabilities,  
17 that would come off, if it worked, it would come off of  
18 J and J's balance sheets; right?

19 A Okay, first, to be clear, this is not the only  
20 proposal. You have to go back to the --

21 Q I'm asking about this proposal, sir.

22 A -- switching from your prior question.

23 Q Sir, I'm asking about this proposal.

24 A Okay.

25 Q I'm asking about page -- Exhibit 7, the one

1 in front of you.

2 A So you're talking about (indiscernible) and the  
3 question is whether or not this will work?

4 Q No, that is not the question. Isn't the  
5 proposal that, once they pay -- if they buy the  
6 liabilities for roughly \$19 billion, then at that  
7 point, it would remove from J and J's financial  
8 statements the non-cash charge for talc-related  
9 liabilities; that's Legacy's idea?

10 A And you're asking me whether that works?

11 Q I'm asking whether that's what Legacy  
12 proposed to you on November 9, 2023?

13 A That's what the words are on this page.

14 Q Excellent and they proposed it to you;  
15 correct?

16 A They sent this to the C.E.O. of Johnson and  
17 Johnson but yes, if you're saying you writ  
18 (indiscernible) Johnson and Johnson, that is the  
19 particular offer they're stating at this particular  
20 point in time.

21 Q And if J and J were to accept this deal, the  
22 Legacy proposal, the minute that J and J accepts the  
23 Legacy proposal, now Legacy, Mr. Conlon, suddenly  
24 becomes adverse to the Talc Claimant's Committee; do  
25 they not?

1 A No, that's wrong.

2 Q Why is that wrong?

3 A I can explain that. So part of the proposal here  
4 is whether and to what extent this is a means of  
5 providing compensation to the lawyers that are the ones  
6 that are overseeing the Talc claims. So particularly,  
7 the sort of nefarious aspect of this, in the \$19  
8 billion, is it's not all going to claimants.

9 First and foremost, Mr. Conlon's proposal involves  
10 him taking all sorts of management fees. So this is a  
11 compensation structure, number one. Number two, he  
12 retains in his proposal a spread of anything that is  
13 paid out versus not paid out. So of the 19 billion,  
14 let's say if 8.9 gets paid out, he gets to keep the  
15 rest, that's secondly.

16 Thirdly, there's no grounds to say that this is  
17 going to work because you can, just as in a bankruptcy,  
18 you can have objecting claimants. So at any point in  
19 time, a claimant can object to this on the grounds that  
20 it's not a viable transaction, which is again, a  
21 concern raised by the auditors. So I would disagree  
22 wholeheartedly, in many respects of everything you  
23 said.

24 THE COURT: I think this would be a good time  
25 to take our lunch break.

1 MR. POLLOCK: Wonderful.

2 THE COURT: All right?

3 MR. POLLOCK: How long would you like, Judge,  
4 or judges, I apologize.

5 THE COURT: How -- we'll come back in an  
6 hour, all right?

7 JUDGE SINGH: Okay.

8 MR. POLLOCK: Thank you, Your Honor.

9 THE COURT: All right, thanks. Take a break,  
10 go off the record, thank you.

11 COURT OFFICER: All rise.

12 (Off the record at 12:49:08 p.m.)

13 (Lunch recess)

14 (Continuation of day's proceeding on afternoon session)

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21CERTIFICATION

I, Nitsa Carrozza, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on CourtSmart, timestamp from 09:38:03 a.m. to 12:49:08 p.m., is prepared to the best of my ability and in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings, as recorded.

/s/ Nitsa Carrozza

Nitsa Carrozza

AD/T 639

AOC Number

Phoenix Transcription LLC

Agency Name

03/28/2024

Date